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OBSERVATIONS

ON
THE PRACTICE AND THE FORMS
OF
DISTRICT, REGIMENTAL, AND DETACHMENT
COURTS MARTIAL.

ALSO
REMARKS ON THE COMPOSITION AND PRACTICE OF

COURTS OF INQUIRY,

ETC., ETC.

BY LIEUT.-GENERAL SIR GEORGE D'AGUILAR, K. C. B.,
FORMERLY DEPUTY ADJUTANT-GENERAL IN IRELAND.

REVISED
BY JOHN ENDLE, ESQ.,
ADJUTANT-GENERAL'S DEPARTMENT, DUBLIN.



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THIS EDITION COMPREHENDS THE VARIOUS ALTERATIONS THAT HAVE TAKEN
PLACE IN THE MUTINY ACT AND ARTICLES OF WAR SINCE THE
PUBLICATION OF THE LAST EDITION IN 1861.

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THE following Letters are inserted by permission of
H. R. H. the Duke of Cambridge:—

“ROYAL BARRACKS.

“The Duke of Cambridge has received Mr. Endle’s note, with the accompanying revised edition of the work on Courts Martial, for which he begs to return Mr. Endle his best thanks.

“He takes this opportunity of assuring Mr. Endle that the service is much indebted to him for the trouble he has taken in compiling this most valuable and very comprehensive work, on a subject so intricate, and yet of so much importance to the army.”

“ST. JAMES’S PALACE.

“DEAR MR. ENDLE,

“I have received your note and the little volume on Courts Martial and Courts of Inquiry which accompanied it, and for both of which I return you my best thanks.

“There is no man who has had more experience in these matters than yourself, and I can, therefore, assure you that I am confident the volume possesses much valuable information on points of the greatest importance to a military man.

“I remain, my dear Mr. Endle,

“Yours very truly,

“GEORGE.”

THE revised "Observations on Courts Martial and Courts of Inquiry" have, in the last and present editions, attained to a completeness considerably aided by the result of forty years' experience, both practical and theoretical. The merits of the work, and its general utility, have been fully acknowledged by the most distinguished heads of the Army, in numerous complimentary letters with which Mr. Endle has been favoured. From amongst these, the following names have been selected :—

HIS ROYAL HIGHNESS THE LATE PRINCE CONSORT, K. G., G. C. B.
HIS ROYAL HIGHNESS THE PRINCE OF WALES; K. G., K. S. I.
HIS ROYAL HIGHNESS THE DUKE OF CAMBRIDGE, K. G., G. C. B.
THE LATE FIELD MARSHAL THE DUKE OF WELLINGTON.

Lieut.-General the Earl of Cardigan, K. C. B.	Major-General Wynyard, C. B.
The late Viscount Hardinge, G. C. B.	Major-General Forster, K. H.
The late Lord Panmure.	Major-General Wood, C. B.
The late Field Marshal Lord Raglan.	Major-General Sir R. P. Douglas, Bart.
The late Field Marshal Lord Seaton, G. C. B.	The late Major-General Trevor.
General Sir G. Brown, G. C. B.	Major-General Doyle.
General Riddell, K. H. —	Colonel French.
The late Lieut.-General Napier, C. B.	Colonel Sullivan.
Lieut.-Gen. Wetherall, K. C. B.	Colonel Pipon.
The late Lieut.-General W. G. Cochrane.	Colonel Brough.
Lieut.-General Turner, C. B.	Colonel W. Smith.
Lieut.-Gen. Sir Robt. Gardiner.	The late Colonel Mylius.
Lieut.-General Mansel, K. H.	Colonel Lord Seaton.
Lieut.-Gen. Sir C. Yorke, K. C. B.	Lieut.-Colonel Hart.
Lieut.-Gen. Sir J. L. Pennefather, K. C. B.	Lieut.-Colonel Hillier.
Lieut.-General Eden, C. B.	Lieut.-Colonel White.
Major-General Greaves.	Major Addison.
Major-General J. Cox, K. H.	The Rt. Hon. Charles Pelham Villiers, M. P., late Judge Advocate General.
	Francis Newman Rogers, Esq., late Deputy Judge Advocate General.

P R E F A C E .

THE following observations have been drawn up for the purpose of facilitating the practice of District or Garrison, Regimental, and Detachment Courts Martial, and of showing the preliminary steps to be taken in the formation of those Courts, as well as the measures to be adopted in the course of, and subsequent to, trial.

They indulge in no speculations, but are founded solely on the Mutiny Act and Articles of War, and on the Rules and Regulations of the Service, as laid down by the proper authorities. If they shall be found to contribute in any way to the information and accommodation of the Officers of the Army, and, above all, if they shall assist in giving uniformity and stability to the principles laid down for their guidance, the object of the Compiler will have been fully accomplished.

DISTRICT OR GARRISON COURTS MARTIAL.

A DISTRICT or Garrison Court Martial must consist of not less than seven Commissioned Officers (except in Bermuda, the Bahamas, the Cape of Good Hope, or other Settlements in Southern Africa, St. Helena, Jamaica, Honduras, Newfoundland, New Zealand, the Australian Colonies, the Windward and Leeward Islands, British Guiana, Hong Kong, and the settlements on the Coast of China, where it may consist of not less than five Commissioned Officers; and in the settlements on the Western Coast of Africa, where it may consist of not less than three Commissioned Officers), and may be composed of any Officers of different Corps, and of Officers of the Royal Artillery and Engineers and Royal Marines, and of Officers of the General Staff, whose appointments have been duly notified in General or Garrison Orders; or such Court may be entirely composed of seven Officers of the same Regiment, assembled by order of the Senior

9th Clause,
Mutiny Act.

112th Article
of War.

112th & 113th
Articles of
War.

6th Clause,
Mutiny Act.

Officer on the spot, provided that such Court be assembled in conformity with the orders of the Officer under whose general command the corps is placed, and who is authorized to exercise his discretion, either in delegating or withholding the power to Commanding Officers to convene District or Garrison Courts Martial, as he may deem most expedient; but this power cannot be vested in any Officer below the rank of a Field Officer, except in detached situations beyond seas, where a Field Officer is not in command, in which case a Captain may be authorized to convene District or Garrison Courts Martial.

In cases where the Commanding Officer of a Corps shall be empowered to convene District or Garrison Courts Martial from time to time *without* previous reference to superior authority, it will only be necessary to take care, before proceeding to trial, that the offences charged are cognizable by a tribunal of that description.*

“*Mutiny*” (except on the Line of March);

* The Proceedings are, in all cases, forwarded by the President to the *Officer who convened the Court*, to be by him transmitted for approval and confirmation.

“Striking, using or offering violence to a Superior Officer, being in the execution of his office;”

“Striking, using or offering violence, when confined in a Military Prison, against a Visitor or other, his Superior Military Officer, being in the execution of his office;”

“Disobeying the lawful command of a Superior Officer;”

“Sleeping on his Post, or Leaving his Post before being regularly relieved,”

—are crimes which are strictly cognizable only by a General Court Martial, and consequently cannot be tried by an inferior tribunal without a special application be made through the prescribed channel, in order to obtain the sanction of the General Officer of the District for that purpose, under the 128th Article of War.

In every case of trial by a District or Garrison Court Martial, the sentence must be confirmed by the General Officer, Governor, or Senior Officer in command of the district, Garrison, Island, or Colony in which the Corps may be serving; and the President, not being under the Rank of Captain, must be appointed by the Officer convening the Court, and must in no case be the Command- 129th Article of War.

ing Officer, or the Officer whose duty it has been to investigate the charges on which the Prisoner is to be arraigned.

On those Stations where the General Officers commanding may deem it expedient to withhold from Officers in command of Corps and Depots the power of convening District or Garrison Courts Martial, and may think proper to confine the delegation of that power to General or other Officers commanding Brigades, Districts, or Garrisons, it becomes necessary that application should in every case be made to such General or Superior Officer with a view to obtain the requisite authority for assembling the Court.

The Form of Application to meet cases of this nature, as prescribed by the Authorities at the Horse Guards, will be found in the Appendix annexed, No. I.*

9th Clause,
Mutiny Act.

A District or Garrison Court Martial, constituted in the manner before mentioned, has not the power of passing a Sentence of Death or Penal Servitude, but may adjudge a Sol-

* These Forms are supplied to Corps on application to the War Office, London.

dier, for disgraceful conduct, misbehaviour, or neglect of duty, to Corporal Punishment, not exceeding 50 *Lashes*; to Imprisonment, with or without hard labour; and may also direct that such Offender shall be kept in *Solitary* Confinement for any portion or portions of such Imprisonment, not exceeding Fourteen days at a time, nor Eighty-four Days in any one year, with intervals between the periods of *Solitary* Confinement of not less duration than such periods of *Solitary* Confinement; and when the Imprisonment awarded shall exceed eighty-four days, the Court shall expressly order that the *Solitary* Confinement shall not exceed Seven Days in any twenty-eight days of the whole Imprisonment awarded, with intervals between the periods of *Solitary* Confinement of not less duration than such periods.

23rd Clause,
Mutiny Act,
128th Article
of War.

In addition to any other punishment which the Court may award, a Court Martial may further sentence any offender to be put under stoppages of pay until he shall have made good—

132nd Article
of War.

“Any Bounty or Free Kit fraudulently obtained by him by Desertion from his Corps, and enlisting in some other Corps or in the Militia;

“ Any loss or damage occasioned by him in any instance of disgraceful conduct.

“ Any loss or destruction of, or damage or injury to, any property whatsoever, occasioned by his wilful or negligent misconduct ;

“ Any medal or decoration for service in the Field, or for General good conduct which may have been granted to him, or any medal or decoration which may have been granted to him by any Foreign power, which medal or medals he may have been authorized to wear, or may have made away with or pawned.”

“ Any loss, destruction, or damage of his Horse, Arms, Clothing, Instruments, Equipments, Accoutrements, or Regimental Necessaries, or of those of any Officer or soldier, or of any extra article of Clothing or Equipment that he or any other soldier may have been put in possession of, and ordered to wear on the recommendation of the Surgeon.

“ Any expense necessarily incurred by his drunkenness or other misconduct.

133rd Article of War. Except in the case of the loss, destruction, or damage of any Arms, Clothing, Instruments, equipments, accoutrements, or regimental Necessaries, in which case the Court

may by its sentence direct that the said stoppages shall continue till the cost of replacing the same be made good, the amount of any loss, destruction, damage, or expense, shall be ascertained by evidence, and the offender shall be placed under stoppages for such an amount only as shall be proved to the satisfaction of the Court.—Provided also, that when an offender is put under stoppages for making away with or pawning any Medal or Decoration, the amount shall be credited to the public ; but the Medal or Decoration in question shall not be replaced except under special circumstances, to be determined by the Commander-in-Chief, with the concurrence of the Secretary of State for War. —Provided also, that after satisfying the Charges for his messing and washing, so much only of the pay of the Soldier may be stopped and applied as shall leave him a residue at the least of One Penny a Day.”

Horse Guards
Circular Memoranda,
7th August
and 8th Oct.,
1857

Except, therefore, in the case of any Arms, Clothing, Instruments, Equipments, Accoutrements, or Regimental *Necessaries*, which may be directed to be replaced at a regulated price, no stoppages for loss or damage can legally be awarded, unless the *amount is specified in the charge, and distinctly proved by*

evidence. The law requires that the Court, having received evidence of the amount given under the sanctity of an oath, should pronounce in their sentence what they consider that amount to be.

Circular
Memorandum,
Horse Guards, 23rd
Nov., 1849.

It is to be understood that compensation for damage done to the building, furniture, and utensils, by Soldiers when in confinement in Military Prisons, may be assessed by the prison authorities, acting under the orders of the Secretary of State for War, in the same manner as Barrack Damages are assessed by the Barrack Department, without the necessity of having recourse to a Court Martial to enforce the payment.

23rd Clause,
Mutiny Act.

A District or Garrison Court Martial is now authorized, *in addition* to any sentence of Corporal Punishment, to award Imprisonment, with or without hard labour, and with or without Solitary Confinement, not exceeding the periods prescribed by the Articles of War.

24th Clause,
Mutiny Act.

In all cases in which Corporal Punishment shall form the whole or part of a sentence, Her Majesty or the *Confirming* Officer may commute such Corporal Punishment to Imprisonment, for any period not exceeding

Forty-two Days, with or without hard labour, and with or without solitary confinement ; or may mitigate such sentence ; or, instead of such sentence, may award Imprisonment, either solitary or with or without hard labour, for any period not exceeding Twenty Days, and Corporal Punishment to be inflicted in the Prison, not exceeding *Twenty-five* Lashes ; care being taken, however, that the portion of *Solitary* Confinement never exceeds the period prescribed.

Whenever Corporal Punishment under a mitigated sentence is to be inflicted in a Military Prison, under the provisions of the 24th Clause of the Mutiny Act above quoted, the Commitment must contain a Special Order for such Corporal Punishment, with a Certified Extract of the Court's Award, and a copy of the order mitigating or commuting the same to Imprisonment and Corporal Punishment combined, without which the latter cannot be inflicted.

Horse Guards,
Circular Memorandum,
24th May,
1850.

The Provision of the Mutiny Act, by which Prisoners are to be subjected to Punishment within the Prisons, is intended to apply to *Commutated Sentences alone*, and Corporal Punishments which are to take effect accord-

ing to the original Sentence are to be inflicted, as heretofore, *on the Parade*.

Horse Guards
Circular Memorandum,
18th July,
1850.

It must be understood that Corporal Punishment is to be inflicted within the Prison only in cases in which the Sentence has been *mitigated* by commuting a portion of it for an *additional Term of Imprisonment* ; but that when any part of the Sentence is remitted or forgiven, without substituting additional Imprisonment, the remainder of the Corporal Punishment is to be inflicted in the usual manner *on parade*.

The infliction of Corporal Punishment is restricted by the Queen's Regulations and Orders of the Army (page 227) to the following offences, viz. :—

“Desertion,” “Mutinous Conduct.”

“Aggravated cases of Insubordination and Violence.”

“Drunkenness on Duty, or on Line of March.”

“Embezzling Public Money.”

“Stealing from a Comrade.”

“Theft,” “Designedly Maiming.”

“Repeated Acts of making away with Necessaries, Arms, Accoutrements, Ammunition, &c.”

“Other Disgraceful Acts, showing vicious or unnatural propensities, and Indecent Assaults.”

The infliction of Corporal Punishment a second time under one and the same sentence is illegal. The Culprit is, therefore, to be considered as having expiated his offence when he shall have undergone, *at one time*, as much of the Corporal Punishment to which he has been sentenced, as, in the opinion of the Medical Officer in attendance, he has been able to bear.

Queen's Regulations, p. 228.

It has been ruled by Authority, that whenever a Soldier is tried upon Two or more Charges, and Corporal Punishment is not applicable to the Graver charge, under the General Regulations and Orders of the Army, already referred to, the Court should abstain from awarding that species of Punishment for the lesser, and have recourse to Imprisonment, solitary or otherwise, or both.

In all cases of the award of Corporal Punishment by *District or Garrison* Courts Martial, it is very desirable, more especially in Garrison Towns, that the Court should, by the wording of their Sentence, leave the Time

and Place for carrying the punishment into effect to the *Confirming* Officer, who will exercise his discretion, either in directing the punishment to be inflicted in presence of the whole, or a portion only of the Troops in Garrison (according to circumstances, and with reference to the example that may be deemed necessary for the occasion), or on the private parade of the Corps to which the offender belongs.

Horse
Guards, Cir-
cular, 10th
Aug., 1846.

Previous to carrying into effect any Sentence of Corporal Punishment, the Regulations require that the Culprit should undergo a minute Medical Inspection, in order that it may be ascertained that he is in a state of Good Health, and in all respects capable of bearing it. Attention is also required to be paid to the state of the weather at the time of inflicting the Punishment, whether of extreme heat, cold, or damp, which might have an influence upon the health of the man after its infliction.

Queen's Re-
gulations,
page 227.

In every case the infliction of Corporal Punishment must take place in the presence of a Military Medical Officer, and is not to be carried into effect on a Sunday, except in cases of evident necessity.

There is no limitation fixed by the *Legislature* to the *Term* of Imprisonment to be awarded by a District Court Martial, excepting as regards *Solitary* Confinement, which, as already stated, is *restricted to fourteen days at a time*, or eighty-four days at different times, with intervals of not less than fourteen days between such times, in one year.* A special Rule applies whenever the Imprisonment awarded exceeds eighty-four days;—in a such a case, the Court should expressly order (as already stated), that the Solitary Confinement shall not exceed seven days in any Twenty-eight days of the whole Imprisonment awarded, with intervals between the periods of Solitary Confinement of not less duration than such periods. It is to be observed, that the nature and extent of Imprisonment generally must of course vary according to locality and circumstances, and more especially with reference to climate, as

Queen's Regulations,
page 225.

* By Art. 23, p. 225, of the Queen's Regulations, however, the duration of imprisonment for all Ordinary Offences is limited to *Six Months*; and for the minor offences, such as "Absence without Leave," unaccompanied by aggravating circumstances, "Drunkenness," not occurring on duty, the imprisonment awarded by a District Court Martial is not to exceed Two or Three Months' duration.

extremes of heat and cold equally prescribe caution.

Whenever a Court Martial shall adjudge an Offender to be kept in *Solitary* Confinement for any portion or portions of his Imprisonment, the *precise* portion or portions of the Imprisonment which is, or are, to be passed in Solitary Confinement, should be *distinctly specified* in the Sentence. But as the number of cells provided in the District Military Prisons for enforcing Sentences of *Solitary Confinement* is but limited, Courts Martial are recommended, in passing Mixed Sentences of Imprisonment, to leave it to the discretion of the Governor of the Prison to appoint the precise period or periods of the Imprisonment at which the Offender shall undergo Solitary Confinement. It is unnecessary, however, that any allusion to such discretion should be made in the wording of the sentence of the Court.

Circular
Memorandum, Horse
Guards, 26th
July, 1845.

Courts Martial are further recommended to refrain from sentencing to simple "Imprisonment" Prisoners whom they may have reason to apprehend will be committed to District and Provost Prisons, and to confine their awards to "Imprisonment with hard

Circular
Memorandum, Horse
Guards, 13th
Aug., 1845.

Labour," or to "Solitary Confinement," or to a combination of those two punishments.

As Courts Martial may in some instances be deterred from awarding Sentences of "*Imprisonment with Hard Labour*," in cases where the Certificate laid before the Court from the Medical Officer,* as to the fitness of the Prisoner at the time to undergo much bodily exertion, is given in a qualified form, it is recommended that in all cases where the Certificate states that the Prisoner is *unequal to labour requiring much bodily exertion*, Courts Martial should, nevertheless, award "*Imprisonment with such labour as, in the Opinion of the Medical Officer of the Prison, the Prisoner may be equal to*," it being understood that there are various descriptions of light labour, to which such Prisoners may, conveniently, be subjected in the Military Prisons, without injury to their health.

Circular
Memorandum, Horse
Guards, 31st
July, 1848.

Medical Officers are enjoined to be extremely careful to particularize, in their Certificate on the form of Commitment, the grounds on which they consider the Prisoner

* *Vide* pages 87, 103.

unfit for the ordinary hard labour of the Prison.

In carrying into effect a Sentence of Imprisonment, it is always desirable to have recourse to a place of *Military* Confinement; but should there be no Military Prison or Barrack Cells available, a Public Prison must of necessity be resorted to; on all such occasions that place of Imprisonment will be fixed upon by the Confirming or Commanding Officer, the regulations of which shall appear best calculated to answer the ends of Discipline.

It will be borne in mind, however, that it is for the advantage of Discipline in *Military* Prisons, not to commit to them *Incorrigible Delinquents* and Prisoners, whom, from the *disgraceful* nature of the Offences of which they have been convicted, it may be deemed expedient to discharge at the termination of their Imprisonment: and looking to the importance of such a measure, the Commander-in-Chief has decided that all prisoners intended for Discharge on the termination of their Imprisonment shall be sent to Civil and not Military Gaols, in conformity with the 146th Paragraph of the Regulations for

Circular
Memorandum, Horse
Guards, 18th
June, 1862.

Military Prisons. If the Soldier is to be discharged with Ignominy, the prescribed forms are to be gone through before he is permitted to leave the Regiment, and the Discharge Documents in all cases are to be completed and forwarded for confirmation a short time previous to the expiration of Imprisonment. At the expiration of the period of their Confinement, their Parchment Certificates of discharge will be delivered to them by the Governor of the Prison, whose receipt for the same should be taken by the Officer commanding the Corps.

Whenever a Court Martial avails itself of the power conferred on it by the 28th clause of the Mutiny Act, regarding the Imprisonment of Offenders already under Sentence for previous Offences, the Court should adhere carefully to its provisions, by awarding in direct terms that the Imprisonment *is to commence at the expiration of the Imprisonment to which the Prisoner had been previously sentenced.* 28th Clause,
Mutiny Act.

Whenever the term "*Month*" is used in a Sentence, without any words to infer that a Calendar Month is intended, the Law considers it to be a "Lunar" Month ; unless,

therefore, "*Calendar*" Months are expressly specified in a Sentence of Imprisonment, the period must be reckoned in Lunar Months of twenty-eight days.

Explanatory
Directions,
1st July,
1848, page
56.

If a Soldier be sentenced to forfeiture of pay, or additional pay, for a particular period, not specifically included in the period of Imprisonment, such award is to be considered as in addition to the penalties of Imprisonment, and to commence from the termination of such Imprisonment. A soldier already under Sentence of Forfeiture, if *again* confined and convicted before the first Sentence is expired, is not to be allowed to reckon the period of such Confinement towards the completion of the first Sentence. Soldiers imprisoned by the Commanding Officer for periods not exceeding seven days forfeit pay and service for the periods of such imprisonment.

If a Soldier is removed into Hospital whilst undergoing a Sentence of Confinement, the period during which he is in Hospital is to reckon as part of such Sentence.

A Soldier thus circumstanced, if he shall recover before the Sentence awarded expires,

may of course be sent back to Imprisonment to complete the remainder of the Sentence.

Soldiers who break out of Prison when confined by Sentence of a Court Martial are liable, if retaken, to undergo the unexpired period of the punishment awarded ; and the time during which they may have been absent is to be reckoned as part of the period of Imprisonment.

It may be desirable in this place to advert to the provisions contained in the Mutiny Act now in force regarding the Custody of Offenders under Military Sentence in Civil Prisons, and also in respect to their Discharge or Removal therefrom to some other Prison or place of Confinement.

By the 30th clause it is enacted—“That ^{30th Clause, Mutiny Act.}
“every Governor, Provost Marshal, Gaoler,
“or Keeper of any Public Prison or of any
“Gaol or House of Correction in any part
“of Her Majesty’s Dominions, shall receive
“into his custody any Military Offender
“under Sentence of Imprisonment by a Court
“Martial, upon delivery to him of an order
“in writing in that behalf from the General

“Commanding-in-Chief, or the Adjutant-
“General, or the Officer who confirmed the
“Proceedings of the Court, or the Officer
“commanding the Regiment or Corps to
“which the Offender belongs or is attached,
“which order shall specify the offence of
“which he shall have been convicted and the
“Sentence of the Court, and the period of Im-
“prisonment which he is to undergo, and the
“day, and hour of the day, on which he is to
“be released ; — and such Governor, Pro-
“vost Marshal, Gaoler, or Keeper, shall keep
“such Offender in a proper place of Confine-
“ment, with or without Hard Labour, and
“with or without Solitary Confinement, ac-
“cording to the Sentence of the Court, and
“during the time specified in the said Order,
“or until he be discharged or delivered over
“to Military Custody before the expiration of
“that Time, under an order duly made for that
“Purpose ; — and whenever Troops are
“called out in aid of the Civil Power, or are
“stationed in Billets, or are on the line of
“March, every Governor, Provost Martial,
“Gaoler, or Keeper of any Public Prison,
“Gaol, House of Correction, Lock-up House,
“or other Place of Confinement, shall receive
“into his custody any Soldier, for a period not

“exceeding Seven Days, upon delivery to
“him of an order in writing on that behalf
“from the Officer commanding such Troops.”

The 31st Clause of the Mutiny Act pro- 31st Clause.
vides for the removal of prisoners undergoing
imprisonment, under the Sentence of a Court
Martial in any Public Prison other than a
Military Prison, set apart by the authority of
this Act, or in any Gaol, or House of Correc-
tion in any part of Her Majesty's Dominions.

It may be right here to observe, that
although by the wording of the last recited
clause, *Military Prisons* are exempted from
its Provisions, the Secretary of State for
War, in the exercise of the power vested in
him by the Legislature, has given full power
to General, or other Officers commanding Dis-
tricts in which Military Prisons are situated,
to direct the removal of Offenders from Mili-
tary Prisons whenever it shall be deemed
expedient so to do ; but this power does not
extend to Officers commanding Corps or De-
tachments, who cannot remove a Prisoner
who shall have been once committed to a
place of Confinement, under the Sentence of
a General, District, or Garrison Court Martial,
without the previous sanction of the General

commanding in Chief, or the Adjutant-General, or the Officer commanding the District or Garrison in which the Prisoner may be, or of the Confirming Officer.

The Legislature having now provided a salutary remedy for the evil which heretofore existed upon this important subject, it only remains to carry out the details of the measure by Commanding Officers of Corps availing themselves of the power they possess of taking their Prisoners with them on the march from one Station to another (that is to say, Men in Confinement by Sentence of *Courts Martial*, for Soldiers in Custody for Civil Crimes cannot, of course, be interfered with), and thereby prevent the inconvenience and expense of sending for them, or of employing Non-Commissioned Officers of other Regiments to conduct them on the termination of their Imprisonment to the New Quarters of the Corps to which they belong : thereby affording an opportunity to the liberated Soldier of again committing himself on the Line of March—for it will be borne in mind, that men thus situated cannot be treated as *Prisoners*, in the strict sense of the term.

To guard against any difficulty arising

when the period arrives for effecting the removal of a Prisoner from one place to another, for the purpose of undergoing the remainder of his Sentence, it will readily occur to the Officer commanding a Corps to which the Offender belongs or is attached, to make a *timely* application to the proper authorities through the prescribed channel, and thus possess himself before the March with the required consent, in order that the Prisoner may accompany the Corps to its new Station.

In the Appendix, No. 3, a Form of Application is introduced, the principle of which is recommended for adoption in cases of this nature.

It is suggested, in order to facilitate the object, that the application be furnished in *Duplicate*, one copy being retained as a Record by the Officer commanding the District, or Confirming Officer, and the other (having the signature of approval affixed) returned to the Officer commanding the Corps, from whom the application shall have proceeded.

It may be desirable, in every case, that the application should be accompanied by a letter from the Officer commanding, addressed to

the Assistant Adjutant-General, or other staff Officer of the District, according to the usage of the Service.

Instances may doubtless sometimes occur, where the Officer commanding the District, or Confirming Officer, may not deem it advisable to sanction the removal of a culprit from the prison in which he may be undergoing his confinement to another place ; and this will always be the case, when the Officer commanding the District, or Confirming Officer, is aware that there is no suitable place for carrying the remaining or any portion of the Sentence into effect, at or near the Station which the Corps to which the offender belongs is about to occupy.

If circumstances should occur, of a nature to induce a Commanding Officer to intercede in favour of a Soldier undergoing Imprisonment in a Public Prison* by Sentence of a

* All recommendations from Commanding Officers for the *remission* of Imprisonment in the cases of Soldiers confined in the *Military* Prisons, by Sentence of Regimental Court Martial, should be addressed to the Visitors of the Military Prisons to which such Soldiers shall have been committed, as directed by the Circular Memorandum, dated Horse Guards, 20th May, 1847, a copy of which, for more ready reference, will be found in the Appendix, No. 64.

General, District, or Garrison Court Martial, with a view to his *discharge altogether* from custody, by a remission of the remaining portion of his Sentence, it will be desirable that the application for that purpose should be made to the General Officer of the District (observing always the usual channel of communication), accompanied by a full and detailed statement of the grounds on which it is founded ; as also, by a copy of the Crime and Sentence of the Court, with an extract from the Court Martial Book of the previous convictions recorded against the Prisoner ; which statement and information on the foregoing points should always be supplied ; but these will be more particularly necessary, in case the General Officer applied to should happen not to have confirmed the proceedings of the Court Martial, and who could not, therefore, come to any decision unless the whole of the facts are placed before him.

If the Prisoner is undergoing confinement by Sentence of a *General Court Martial*, either in a Public or Military Prison, his *release* before the termination of the period awarded cannot be authorized without a previous reference to Head Quarters. If confined in a Public Prison by Sentence of a

District or Garrison Court Martial, the power of remission, of course, rests with the General Officer of the District, Garrison, or Colony, or of the Officer by whom the Sentence of the Court shall have been confirmed. But no Soldier committed to a *Military* Prison can be legally discharged from Custody before the expiration of his Sentence without the Secretary of State for War's sanction, or that of one of the General or other Officers, to whom he may have deputed his authority to remit Sentences.

Horse Guards,
Circular Memorandum,
20th May,
1847.

It may be scarcely necessary to observe, in the case of an offender undergoing Imprisonment by sentence of a *Regimental* Court Martial, in a Public Prison or Gaol, the Commanding Officer, of his sole authority, may order his discharge from confinement previous to the expiration of his sentence, and should he (after having ascertained the correctness of the man's conduct while in confinement) see sufficient grounds for the exercise of such lenity, or direct his removal to some other place of confinement, whenever circumstances shall occur to render such a measure necessary ; bearing in mind always that the time of removal is to be reckoned as imprisonment under the Sentence, whether *Solitary* or otherwise.

On the *first* committal of an offender to custody, as well as on every occasion of his *subsequent* committal, on being removed from one place of confinement to another, the Officer commanding the Regiment or Corps to which the Soldier belongs, or is attached, will be careful always to specify, in the written order (or Form of Commitment, which is invariably to be in the prescribed War Office Form) to the Governor of the Prison, Gaoler, or Provost Marshal, receiving the Prisoner into custody, the *precise period* and *nature* of the Imprisonment which the offender is to undergo, and the day, and the hour of the day, in which he is to be released, including the days both of the signing of the sentence, and of the release of the Prisoner. It will always be borne in mind, that whenever it happens that the last day of the sentence falls upon the Lord's Day, the Prisoner should be *released on the day previous*.

31st Clause,
Mutiny Act.

As a Prisoner is entitled to his discharge at an early convenient hour of the last day of his Sentence, it has been ruled by the Secretary of State for War, that Escorts shall be sent for prisoners on the day on which their sentence expires, when the Corps to which such prisoners belong is stationed

sufficiently near to enable the escorts to reach the Military Prison before twelve o'clock, and return to their quarters the same day.

When the Sentence expires on a Sunday, Christmas Day, or Good Friday, prisoners may be released on the previous day at four o'clock, P. M.

Prisoners confined in Garrison or Barrack cells are to be released from the cells after the regular dinner-hour, and before dark in the evening. (*Vide* "Queen's Regulations," Art. viii. p. 232.)

Every term of Imprisonment under the Sentence of a Court Martial, whether *original* or *revised*, is to be reckoned as commencing on the day on which the *original Sentence and proceedings shall have been signed by the President*.

83rd to 85th
Articles of
War.

For certain crimes specified and comprehended under the head of *Disgraceful Conduct*, as well as for Desertion, a District or Garrison Court Martial may, in addition to any Sentence which such Court may award, further adjudge the forfeiture of all advan-

tage as to additional Pay, Good Conduct Pay, and Pension on discharge, which might have otherwise accrued from the length of his former service, or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, and to forfeiture of any Good Conduct Badges, Medals, or Decorations, and of any Annuities or Gratuities relating thereto, according to the nature of the case; *and whenever the forfeiture of all claim to pension shall form a part of the Sentence*, the Court may also recommend the Prisoner's discharge from the service with Ignominy.*

But unless this forfeiture be actually made a part of the Court's award, it *cannot* recommend the Prisoner's discharge with Ignominy. It is altogether immaterial that there may have been a sentence of forfeiture at some antecedent time; the authority which has the power to give effect to such recommendation should have the means of seeing on the face

* The Form of Application recommended for adoption, with the view of obtaining the requisite authority for an Offender's discharge with ignominy, pursuant to the Court's recommendation, will be found in the Appendix, No. 4.

of the sentence itself that the recommendation is warranted.

The necessity for inserting the forfeiture as a preliminary to a recommendation for Discharge with Ignominy is obviously not a question of form only. It is possible the Pension may have been restored to the Prisoner, or the proceedings of the Court Martial declared illegal, or the evidence of character inadmissible. As a precaution against contingencies such as these, therefore, it is necessary that the sentence of forfeiture should be inserted in the sentence, although the Court may in fact be aware that the Prisoner has already by previous sentence been deprived of his Pension.

It will sometimes happen, notwithstanding the recommendation of the Court, that the Commander-in-Chief may not deem it expedient to authorize the man's discharge with Ignominy, but may direct his retention in the Service. It is very desirable therefore—indeed, it is so ordered from Head Quarters—that in cases in which a Court Martial awards the forfeiture of pension upon discharge, *the forfeiture of the Additional Pay*, or Good Conduct Pay (as the case may be) should inva-

Circular Memorandum,
dated Horse
Guards, 31st
July, 1838.

riably form a part of the award, and be specified in the Sentence.

“The term ‘Disgraceful Conduct’ should
 “never be employed in framing charges, ex-
 “cept in relation to those offences strictly con-
 “templated by the Mutiny Act and Articles
 “of War as liable to the penal consequences of
 “Offences coming under that designation; it
 “being evident that the indiscriminate use of
 “the term tends to weaken its moral effect.
 “Unless, therefore, a case shall fairly come
 “under one or other of the legal descriptions
 “of Disgraceful Conduct specified in the
 “above quoted Articles of War, it should not
 “be characterized as such in the Charge,
 “but the term ‘Disgraceful Conduct’ reserved
 “for and applied to those Offences only, on
 “Conviction of which the Offender is liable
 “to be deprived, by the Sentence of the Court,
 “of the benefit of his Service.”

Circular Me-
 morandum,
 Horse
 Guards, 19th
 Nov., 1849.
 83rd to 85th
 Articles of
 War.

Any Soldier *convicted* by a *District or Gar-* 82nd Article
rison Court Martial of “Habitual Drunken- of War.
 ness,” that is to say, having been Drunk four
 times within three hundred and sixty-five
 days, or twice Drunk when on or for Duty
 or on Parade, or on the Line of March, *must*
 in all cases be deprived of one Penny a day

of his Pay, for any period not less than one hundred and sixty-eight days, and not exceeding six hundred and seventy-two days, subject to restoration on subsequent good conduct; and in addition to such punishment, the Court may (if it shall think fit) sentence the Offender to any other punishment which the Court may be competent to award; and all the instances of Drunkenness set forth in the charge, other than that which occurred last, must be proved by reference to the Defaulters' Books, or by satisfactory evidence of the entries therein.* If the instance of Drunkenness which occurred last should be proved, but the offence of Habitual Drunkenness should not be proved, the Court may acquit the prisoner upon the charge for Habitual Drunkenness, and find him guilty upon the single instance of Drunkenness, and sentence him accordingly.

Any Soldier who at any time within one hundred and sixty-eight days after a con-

* It has been ruled by authority that the proper mode of framing a charge for Habitual Drunkenness is thus:—

“For Habitual Drunkenness in having been drunk,” &c. &c.

The nature of the crime should always be stated at the beginning of a charge, not at the end of it.

viction for Habitual Drunkenness, shall be Drunk *twice*, or shall be *once* Drunk when on or for Duty or on Parade, or on the Line of March, shall on proof thereof be again convicted of Habitual Drunkenness, and shall, over and above any former forfeiture or forfeitures of Pay, be further deprived of one Penny a day of his Pay for any period not exceeding one hundred and sixty-eight days, if convicted before a Regimental or Detachment Court Martial, and for any period not less than one hundred and sixty-eight days, and not exceeding six hundred and seventy-two days, if convicted before a District or Garrison Court Martial ; and in addition to such punishment, the Court may sentence such Offender to any other punishment which the Court may be competent to award.

But if a charge of Drunkenness on Duty under Arms, or of Drunkenness when on or for Duty or on Parade, or on the Line of March, be included in a charge of Habitual Drunkenness, the Court shall not pass any Sentence of Deprivation of Pay in respect of such charge of Drunkenness, whether on Duty, or for Duty or on Parade, or on the Line of March, but the deprivation awarded by the Sentence of the Court shall be in respect of

Habitual Drunkenness only ; and no instance of Drunkenness which has on a former occasion formed part of a charge of Habitual Drunkenness, of which a Soldier has been *Convicted*, is again to be adduced against him in support of a similar charge.

It will be here understood that the *finding* and *sentence* of a Court Martial simply cannot be considered as a legal conviction ; to render it so, the finding and sentence must have been duly *Confirmed*. Any Soldier, therefore, convicted of Habitual Drunkenness, where the finding and sentence shall not have been *Confirmed*, is liable to have any of the instances of Drunkenness brought forward against him on that occasion included in a subsequent charge of Habitual Drunkenness.

There can be no doubt, however, that a Soldier may be tried, convicted, and punished, on a charge of "Habitual Drunkenness," although he may have been already tried for one or more of the acts of Drunkenness included in the charge ; but the last or *immediate* instance of Intoxication for which the Prisoner is brought to trial for "Habitual Drunkenness," must neither have been pun-

ished nor forgiven, although the preceding instances necessary to be brought forward to constitute a charge of Habitual Drunkenness may be included therein, notwithstanding they had been the subject of punishment, because the continued repetition of the act of Drunkenness on the part of the Prisoner after punishment for it only proves more decidedly the inveteracy of his vicious habits.

In no case can a Soldier, by reason of being Drunk on or for Duty or Parade, or on the line of March, or by reason of Habitual Drunkenness, be at any one time placed under forfeitures of Pay, exceeding in the whole the amount of *three pence per diem*; but such Soldier, nevertheless, being again convicted of being Drunk on or for Duty or Parade, or on the Line of March, or of Habitual Drunkenness may be placed under forfeitures of pay to commence at the expiration of a previous sentence of forfeiture, and may be sentenced to any other Punishment which the Court is competent to award.

82nd Article
of War.

The 82nd Article of War has not rendered it *imperative* to bring a Soldier to trial before a Court Martial for "Habitual Drunkenness," immediately on the commission of the precise

number of acts of Drunkenness therein specified. The Commanding Officer is at liberty to select cases for trial whenever he shall deem it expedient to do so in his discretion. Hence it occasionally will happen, from some palliating circumstances or other, that the Commanding Officer may feel disposed, in the hope of reclaiming the Offender, to abstain from having recourse to a Court Martial until it shall be found useless to extend any further lenity towards him, when there is no alternative but to bring him to trial on a charge of "Habitual Drunkenness," as the only means of checking his evil propensities.

In dealing with the crime of "Habitual Drunkenness," in the case of a young offender, recourse is generally had to a Regimental Court Martial, unless the *immediate* offence shall call for a District Court Martial.

82nd Article
of War.

It is desirable in every case of this nature that the *Charge* shall express the *whole* of the number of acts of Drunkenness committed by the delinquent within a year, or even a shorter period than a year, instead of confining the specification of them to the number of instances of Drunkenness only, which strictly constitute the Habitual offence,

viz. : *four* times within three hundred and sixty-five days, or twice Drunk when on or for Duty or Parade, or on the Line of March as the case may be.

The principle laid down in the foregoing remarks applies equally to the cases of Soldiers proceeded against for "Habitual Drunkenness," after a previous conviction of that offence.

The Charge for "Habitual Drunkenness" must contain a distinct specification of the *time, place, and occasion*, when each instance of Drunkenness occurred ; and if the instances of Drunkenness in which it is proposed to proceed against a Prisoner shall have taken place within one hundred and sixty-eight days of a former Conviction of Habitual Drunkenness, the time and place of the said conviction must also be distinctly stated according to the Forms of Charges which have been framed to meet every variety of Case, and which will be found in the Appendix, No. 23.

Horse
Guards, Cir-
cular, 31st
December,
1850.

Particular care should be taken, that every entry in the Defaulters' Book is correct as to *time, place, and occasion*, when each instance

of Drunkenness occurred, and that there is no discrepancy between the entry therein and the specification in the Charge of Habitual Drunkenness upon which the Offender is to be tried ; for should credible evidence be adduced to lead the Court to the conclusion that the entry in the Defaulters' Book is incorrect, it would not act upon such entry, and consequently the particular act of Drunkenness not being proved by any entry in the Defaulters' Book, the Prisoner would be entitled to an acquittal ; unless it should so happen that there are other instances of Drunkenness embodied in the charge sufficient to constitute the offence of "Habitual Drunkenness," and which instances have been satisfactorily proved in evidence.

On a first trial for "Habitual Drunkenness," the 82nd Article of War, in defining the offence, states, that it must consist in being Drunk *four* times within three hundred and sixty-five days, or *twice* Drunk when on or for Duty, or Parade, or on the Line of March. The fact, therefore, of a Soldier being *twice* Drunk *off* Duty, and *once* Drunk on Duty, within the above period, cannot be considered as constituting an act of "Habitual Drunkenness." To compound the offences in this

manner, in order to *force* a charge of “Habitual Drunkenness,” is not in accordance with the distinct definition of the Crime as laid down in the Article of War above quoted and would be clearly illegal.

Any Soldier who shall be drunk when on any Duty, not under arms, or for Duty or on Parade, or on the Line of March, *may*, on conviction thereof by any Court Martial, be sentenced to be deprived of a *Penny* a day of his *Pay* for any period not exceeding *Thirty Days* in addition to any other punishment which such Court shall award; provided that if any such charge be included in a charge of Habitual Drunkenness, the Court shall not pass any sentence of deprivation of Pay in respect of the charge of Drunkenness on Duty, but the deprivation awarded by the Sentence of the Court must be in respect of *Habitual Drunkenness only*.

81st Article
of War.

82nd Article
of War.

When a former conviction of Habitual Drunkenness is stated in any charge of Ha-

* * * A conviction of “Habitual Drunkenness” will render a Soldier liable to be degraded from the 1st to the 2nd Class.—
Vide Horse Guards, Circular Memorandum, dated 31st May, 1861.

82nd Article
of War.

bitual Drunkenness, such conviction must be proved by the production either of the Court Martial Book, or of the Regimental or Company Defaulters' Book, containing the entry thereof; or if such Books cannot be produced, then by a copy of the entry, in one or other of them duly authenticated; and if any Soldier who has been convicted of having been Drunk when on or for Duty or on Parade, or on the Line of March, or convicted of Habitual Drunkenness, and sentenced in either case to forfeiture of One Penny a day or more of his Pay, shall be at or removed to a station where liquor is issued in kind, or shall be embarked on board of any vessel where liquor is provided as a part of the Ration, such Soldier is to be deprived of his liquor instead of forfeiting One Penny a day of his Pay, for so long a time as he shall be at such station, or on board such vessel, and his sentence to forfeiture of Pay shall continue in force.

In every case, therefore, the Court should expressly state in its Sentence, that the forfeiture is to be levied upon the Prisoner's *Pay*, without any qualification or conditions whatever.

The 142nd Article of War directs that no Commanding Officer shall, by giving in against a Prisoner vague and indefinite charges, try before a Regimental Court Martial grave offences which are directed to be tried by a General, District, or Garrison Court Martial; but as in certain cases some of these offences may admit of less serious notice (either from their being attended by palliating circumstances, or from the high character of the Corps to which the offender belongs not calling for a more signal example), a power is vested in the General or Officer commanding the Brigade, District, or Garrison, to exercise his discretion in regard to the description of tribunal before which the delinquent shall be brought to trial. On all occasions, however, of this kind, the Officer commanding the Corps, who may deem it advisable to have recourse to the inferior tribunal, is required to transmit to the General or Superior Officer a statement of the case, together with the charge or charges proposed for investigation.

In this statement the Officer commanding should enter *fully* and *minutely* into the whole of the particulars connected with the offence immediately under consideration; and

he should, moreover, specify his opinion as to the offender's previous general character and conduct, accompanying such opinion by a descriptive return of his person, statement of his services, and by extracts from the Court Martial and Defaulters' Books; in fact, every possible information should be afforded by him upon the subject, in order that the General or Superior Officer, to whom the application shall be made, may, in the exercise of the discretion vested in him, be enabled to decide at once, without the necessity of further reference to the Corps or Depot, whether the ends of discipline may not be sufficiently attained without having recourse to a superior tribunal.

In the Appendix, No. 2, will be found a Form of application, which is calculated to afford all the information that is likely to be required by the General or Superior Officer in coming to a decision upon the case submitted for his consideration.

It is necessary, however, distinctly to observe, that "MUTINY" is one of those crimes which cannot be considered as coming within the class of offences which admit of less serious notice than investigation before a GENERAL

Court Martial, *unless it shall be committed on the Line of March*, or on board any Transport Ship, Convict Ship, Merchant vessel, or Troop Ship not in commission, when, for the obvious reason of bringing the offender to speedy justice, and immediate punishment on the spot, the Articles of War provide that it may be tried, as well as any other gross insubordination, by a *Regimental* or Detachment Court Martial, subject in its Sentence to certain limitations, viz.:—"That it shall not exceed that which a Regimental Court Martial is competent to award."

Any sentence confirmed by the Commanding Officer on the Line of March must be reported to the General Commanding, and noticed in the monthly Return of Courts Martial sent into the Adjutant-General.

The different punishments within the power of a *Regimental* Court Martial to inflict will be found fully detailed under the head "*Regimental Courts Martial*"—page 71.

Circumstances may sometimes occur (viz., from the small number of Officers present, or from other causes) which would prevent the assembling of a *Regimental* Court Martial on

the Line of March for the trial of “*Mutiny or other gross Insubordination*,” on such occasions, therefore, the Officer in command, on arrival at his new Station, should forward without loss of time, through the regular channel, to the General Officer of the District (or other Superior Officer) a full and detailed statement of all the particulars connected with the offender's misconduct, and await his decision as to the description of tribunal to be resorted to for his trial.

It will of course be here understood, that the Officer commanding, after arriving at his new Station, is at full liberty, without reference to superior authority, to dispose of, *Regimentally*, any cases of Drunkenness (unaccompanied by violence or other gross insubordination), and also any minor offences which may have been committed on the Line of March, and which are *properly cognizable* by a *Regimental Court Martial*.

The crime of “Desertion” is viewed as one of the gravest of the Military Calendar ; but as it admits of many degrees of criminality, arising out of the youth and inexperience of the offender, and above all with reference to the repetition and frequency of the offence

by the same individual, it is humanely provided for by the following regulations :—

If a man's absence be *less than twenty-one days** he may be tried on a charge of "*Absence without Leave*" (but not on a charge of Desertion), by a *Regimental Court Martial*. In all cases, if his absence shall have *exceeded* 138th Article of War. *twenty-one days*, the offence cannot be tried otherwise than by a General, District, or Garrison Court Martial, on a distinct charge of "Desertion." It is not, however, now *imperative* to bring *every* case of Desertion before a Court Martial, as will be seen on reference to the 51st Article of War, wherein it is provided that the Trial may be dispensed with 51st Article of War. in any case in which it shall appear to *the Commander-in-Chief* that there are special circumstances to justify the exception. Instances very rarely occur, however, of a nature to induce a Commanding Officer to recom-

* Reckoned of course from the day on which he absented himself, to the day of his surrender or apprehension, both days inclusive.

In the Appendix, No. 65, will be found a copy of a circular from the Horse Guards, under date 16th June, 1836, containing specific instructions with regard to the cases of men who may absent themselves without leave for any period not exceeding *five days*.—54th Article of War.

mend the adoption of such a lenient course towards a Deserter.

When the crime shall have been committed under peculiarly mitigating circumstances, and the Commanding Officer shall in consequence be desirous of dispensing with the offender's trial, it will be necessary that a distinct authority be obtained for that purpose. With this view, a statement of all the particulars of the case should be made (through the Assistant Adjutant-General or Brigade Major) to the General Officer of the District, who will, should he deem fit, forward it, with his recommendation, to the Authorities at Head Quarters.

171st Article
of War.

Previously to the year 1841, the *simple conviction* of Desertion before a Court Martial, whether attended by any aggravating circumstances or not, carried with it, as a matter of course, the forfeiture of all advantage from *past* or *future* Service, both as to Additional Pay and Pension on Discharge ; but the 171st Article of War, now in force, provides that every soldier who shall be found guilty of Desertion by a Court Martial *when such finding shall have been confirmed*, or of Felony in any Court of ordinary Crimi-

nal Jurisdiction in *England* or *Ireland* or of any crime or offence in any Court of Criminal Judicature in any part of the United Kingdom, or in any Dominion, Territory, Colony, Settlement, or Island, belonging to or occupied by Her Majesty, out of the United Kingdom, which would, if committed in *England* amount to Felony, shall *thereupon* forfeit all advantage as to Additional Pay, Good Conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his *former Service*, in addition to any Punishment which such Court may award.

A Court Martial is, however, empowered to sentence a Soldier so convicted of Desertion, in addition to any other Punishment, to the forfeiture of all advantage as to Additional Pay, Good Conduct Pay, and Pension on Discharge which *might accrue from future Service*, should the Court deem fit, according to the circumstances of the case.

52nd Article
of War.

Thus it will be seen that the forfeiture of Service *on conviction* of Desertion is limited to past Service only, and that a *positive Sentence* of the Court Martial is *now* necessary to deprive the Soldier convicted of Desertion of all advantage of Additional Pay, Good Conduct Pay, while serving, and of Pension

on Discharge, which might accrue from *future* Service.

Detailed instructions for the guidance of Commanding Officers of Corps, in their recommendations for the restoration of Service forfeited by Desertion, are laid down in the Queen's Regulations, pages 173 and 174, Paragraph 16, 17, 18.

47th Article
of War.

It is at the same time to be observed, that any Soldier absenting himself without Leave may be tried for "Desertion," *without reference to the number of days during which he has been absent,** and may thereupon be found guilty either of Desertion, or of absence without leave.

"If any Soldier shall absent himself without leave for any period not exceeding *five* days, and shall not account for the same to the satisfaction of his Commanding Officer, and if any Soldier shall be guilty of any

* This wise proviso has been intended, no doubt, to bring this offence, when committed under aggravated circumstances, or in situations where an immediate example is necessary, at once under cognizance of the higher, or even the highest tribunal.

“other offence which the Commanding
 “Officer may not think necessary to bring be-
 “fore a Court Martial, the Commanding Offi- 54th Article
 “cer may, in addition to any minor punish- of War.
 “ment he is authorized to award, order that
 “such Soldier shall be imprisoned for any pe-
 “riod not exceeding *One Hundred and Sixty-*
 “*eight* Hours, with or without Hard Labour,
 “or with or without Solitary Confinement, as
 “the said Commanding Officer may think
 “fit; and any Soldier who shall have absented
 “himself, as aforesaid, may, in addition to,
 “or instead of such imprisonment or other
 “punishment which the Commanding Officer
 “has authority to inflict, be further deprived,
 “by order of his Commanding Officer, of
 “his Pay for the day or days of such ab-
 “sence.”

Any Soldier ordered by his Commanding
 Officer to suffer Imprisonment, or Deprivation
 of Pay, shall, if he so request, have a right to
 be tried by a Court Martial for his offence,
 instead of submitting to such imprisonment
 or Deprivation.

From amongst the different crimes and
 offences enumerated in the Articles of War,
 and which are punishable by a General or

District Court Martial, the following have been selected, as calling for more than ordinary consideration and attention previous to submitting them to this last-mentioned tribunal. Charges have been framed calculated to meet each offence, and will be found, with the penalties attaching thereto, in the Appendix.

Crimes.	Appendix, No.
Mutiny,	9
Striking, using, or offering violence to a Superior Officer,	10
Striking, using, or offering violence, when confined in a Military Prison, against a Visitor or other his Superior Military Officer,	11
Disobeying the lawful command of a Superior Officer,	12
Sleeping on his Post, or leaving his Post before being regularly relieved,	13

The foregoing offences belong more peculiarly to the jurisdiction of *General Courts Martial*; and *Mutiny*, as already stated (*except on the Line of March*), is never tried by an inferior tribunal; but the other crimes mentioned, if attended by circumstances of a palliating nature, are sometimes investigated by a District Court Martial, at the discretion of the General or other Officer commanding the Brigade, District, or Garrison, under the 142nd Article of War.

The following crimes are *strictly* cognizable by *District Courts Martial*, but may, with the exception always of "Desertion" and "Disgraceful Conduct" (which offences have distinct penalties attached to them, in the power only of General or District Courts Martial to award), as also in cases of Maiming by Accident, be tried by a *Regimental Court Martial* at the discretion of the General or other Officer commanding the Brigade, District, or Garrison, under the 142nd Article of War :—

Crimes.	Appendix, No.
Desertion,	14
Advising or persuading others to desert . .	15
Fraudulent Confession of Desertion, . . .	16
Breaking Arrest, or escaping from Confinement,	17
Refusing assistance to a Magistrate in the apprehension of Military Persons accused of Civil Crimes,	18
Leaving Guard or Picquet,	19
Disgraceful Conduct,	20
Maiming,	21

In the disposal of those offences which are not *specifically named* in the Articles of War, but which "*from being to the prejudice of good order and Military Discipline,*" fall within the provisions of the 108th Article, Officers commanding Corps and Depots should go-

108th Article
of War.

vern themselves entirely by the nature and degree of the offence ; bearing in mind always the expediency of having recourse to that description of tribunal which is vested with the power of awarding an extent of punishment adequate to the character and magnitude of the offence committed.

“ Insubordinate and outrageous conduct towards a Superior Officer,”

“ Irregular Conduct on Escort Duty,”

“ Obstructing and assaulting the Police, in the execution of their duty,”

“ Striking a Sentinel,”

“ Soldiers permitting a Non-Commissioned Officer to be assaulted by Civilians without affording him any aid or assistance,”

and

“ Writing an Anonymous Letter, imputing improper conduct and motives to his Commanding (or other) Officer, or Non-Commissioned Officer, in the discharge of his duty.”

108th Article
of War.

are crimes which may be considered as falling within the provisions of the 108th Article of War. They are of too serious a nature for the investigation of a *Regimental Court Martial*, and are generally disposed

of by a higher tribunal. Indeed, the first of these offences is almost invariably submitted to the cognizance of a *General Court Martial*, except when committed on the Line of March, for which an express provision is made by the 137th Article of War, already referred to.

Charges have been framed to meet each supposed case, and, with the penalties attaching thereto, will be found in the Appendix under the following heads:—

Crimes.	Appendix, No.
Insubordinate and outrageous conduct towards a Superior,	24
Irregular conduct on Escort Duty,	25
Obstructing and assaulting the Police in the execution of their Duty,	26
Forcing or Striking a Sentinel,	27
Soldiers permitting a Non-Commissioned Officer to be assaulted by Civilians without affording him any aid or assistance, . . .	28
Writing an Anonymous Letter, imputing improper conduct and motives to his Commanding (or other) Officer, or Non-Commissioned Officer, in the discharge of his Duty,	29

Particular care should be taken that the proceedings of all Courts Martial are drawn up with accuracy, and that they are perfectly intelligible throughout. The form and

manner of receiving and recording the testimony of the several witnesses examined before the Court are points of great importance. In order, therefore, to facilitate the duties of the Members in this respect, a sketch of the proceedings of a Court Martial is given in the Appendix, No. 5. An adherence to the form therein laid down will, upon a general principle, it is hoped, be found calculated to meet the object desired.

Page 223,
Art. 16.

It is especially enjoined by the Queen's Regulations that care be taken that the Minutes of the proceedings of all Courts Martial be fairly and accurately recorded, in a clear and legible hand,* *without erasures or interlineations*—the pages of the Minutes being numbered, and the sheets, when more than one, stitched together.

Should a Prisoner be desirous of calling witnesses to his character, the rule of proceeding is this:—

All the evidence on the part of the prose-

* The whole of the Minutes of the proceedings of every District, Garrison, Regimental, or Detachment Court Martial, should be in the handwriting of some one of the Officers of the Court; when there are erasures or interlineations, the President should affix his initials.

cution having been first examined, and the Prosecutor's case closed, the Prisoner is then at liberty, if he thinks proper, to make his defence, and to call witnesses, first, to meet the charge, and, secondly, to speak to his character.

13th Clause,
Mutiny Act.
155th Article
of War.

All these witnesses must be examined upon oath.

When the whole of the evidence shall have been gone into, both on the part of the prosecution and the defence, and recorded in the Minutes according to the order in which it has been received, the Court is cleared for the purpose of deciding upon the guilt or innocence of the Prisoner. In this stage of the proceedings it is required that the Minutes of the evidence should be read over by one of the Members before an opinion is given.

If the prisoner be found guilty, the Court proceeds to receive evidence of former convictions, and previous general character. This examination into former convictions and general character enables the Court to mete out punishment so as to satisfy the ends of justice with greater precision.

156th Article
of War.

The 156th Article of War, provides, that
“after any person subject to these Articles
“has been found guilty, the Court Martial
“before which he has been tried may, before
“passing Sentence, and for the purpose only
“of awarding Punishment, receive in evi-
“dence against him any previous Conviction
“or Convictions, the proceedings of which
“have been duly confirmed, and any previous
“Conviction or Convictions of any such per-
“son by a Court of ordinary Criminal Juris-
“diction ; but before any such evidence shall
“be received, it shall be proved to the satis-
“faction of the Court, that the Prisoner had
“previously to his trial received notice of the
“intention to produce such evidence against
“him ; and the Court shall not award any
“other Punishment or Punishments than
“may be legally awarded for the offence of
“which the Court shall then have found him
“guilty.”

157th Article
of War.

“*In the case of previous Convictions by
“Courts Martial, the Court Martial Book, or
“the Defaulter Book of the Regiment, Corps,
“Troop, or Company, and when none of those
“Books can conveniently be produced, a Certifi-
“cate which shall purport to contain a Copy
“of the Entry of such Convictions in any such*

*“Books, and which shall be signed by the
 “Adjutant or other Officer having the Custody
 “of the Court Martial Book, or of the Defaulters’
 “Book of the Regiment, Corps, Troop, or Com-
 “pany to which the Prisoner belongs, shall be
 “sufficient evidence of such Conviction.*

“In the case of a conviction by a Court 158th Article
of War.
 “of ordinary Criminal Jurisdiction, a certifi-
 “cate transmitted as provided for in the 39th
 “Section of the Mutiny Act to the Officer
 “commanding a Regiment or other Corps 39th Clause,
Mutiny Act,
 “by the Clerk of any such Court, or other
 “Officer having the custody of the records
 “of such Court, or the Deputy of such
 “Clerk, setting forth the offence of which the
 “Prisoner was convicted, together with the
 “judgment of the Court thereon, and pur-
 “porting to be signed by such Clerk or other
 “Officer, or by the Deputy of such Clerk ;
 “or if such Certificate cannot conveniently be
 “obtained, a copy thereof, duly certified by
 “the Officer producing it, shall be sufficient
 “evidence of such Conviction.

“It shall not be necessary to prove the 159th Article
of War.
 “signature or official character of the Person
 “appearing to have signed either of the
 “above-mentioned Certificates, nor, if the

“ Court be satisfied from all the circumstancees
“ of the case, that the Prisoner under trial is
“ the person mentioned therein, shall it be
“ necessary to give other proof of the identity
“ of the person of the Offender.”

Especial care should therefore be taken that the Prisoner is duly warned of such intention ; for if this should be omitted, it is obvious that the Court would not be able to receive testimony upon the subject of any previous convictions, and the ends of justice would be thereby defeated.

When the Prisoner is with his Regiment, and the Court Martial for his trial is intended to be assembled at the Head Quarters of it, he should be warned by the Adjutant, or acting Adjutant.

In those cases where it may be necessary to march a Prisoner to a distance from his Regiment for trial, he should be warned by the individual witness who may have been selected to depose to his previous convictions, and general character.

If the Prisoner should happen to be already absent from his Corps, and on the spot where the Court is to be assembled for his trial, the

Officer commanding will appoint a proper person for this duty.

The President of any Court Martial, other than a General Court Martial, stands in the place of an officiating Judge Advocate. It therefore falls within his province to take care, *before the Court is sworn*, that the Prisoner has had notice of the intention to bring forward previous convictions in evidence against him on his trial.

War Office
Circular,
24th March,
1830.

As it is of importance, however, that the Prisoner, when brought before the Court, should stand there free from all suspicion of previous guilt of every kind, it is highly desirable that the question, whether he has received due notice that previous convictions will be brought against him, should be put in such a general way as to leave the Court ignorant of the existence of any such convictions *until after the finding*.

After the Prisoner is found guilty of the offence for which he is under trial, the Court is required to obtain, by a *direct* question, satisfactory proof that the Prisoner has had due notice of the intention to bring forward

in evidence previous convictions against him.

The *general* character of a Prisoner is that only which can properly be inquired into from the individual in the Regiment who is able, from his general knowledge of the Prisoner, to depose to it ; but the *reasons* upon which he *founds* the opinion regarding such general character cannot be legally gone into. The witness selected to depose to this point may, however, if it should be necessary, in order to *refresh his memory*, refer to the Defaulters' Book ; but he is not at liberty to read it to the Court ; nor is it to be read by them, except in cases of "*Habitual Drunkenness*," for which an express provision is made by the 82nd Article of War.

The form and manner of receiving and recording the evidence adduced in respect to the previous convictions and general character of a Prisoner, will be found in the sketch of proceedings laid down in the Appendix, and already referred to.

After the Court shall have decided upon

and recorded their Sentence, the proceedings are to be dated and signed by the President, who will then forward them to the General or other Officer vested with authority to confirm the Sentence.

Queen's Regulations,
page 223,
Art. 17.

In the event of the proceedings being confirmed by the General or other Officer commanding the District, they are forwarded by him to the Officer commanding the Corps to which the Prisoner belongs ; or if there should happen to be other Corps, or Detachments belonging to different Regiments, at the Station, then to the Senior Officer on the spot, with a view to the result of the trial being promulgated to the troops in the Garrison, according to the usage of the Service, and in order that the punishment awarded may be carried into effect, or otherwise, as the confirming Officer may have been pleased to direct.

When the proceedings shall have been duly promulgated, the charges, finding, and sentence are to be recorded in the Regimental Books, and the proceedings returned to the President, to be by him forwarded without delay to the Right Honourable the Judge Advocate General, *London*, con-

Queen's Regulations,
page 224,
Para. 19.

formably to the provisions of the Mutiny Act.*

Cases will sometimes occur where the General or other Officer commanding the District may find himself obliged to order a Court to revise their proceedings, upon grounds which, in his judgment, appear to render such a measure expedient, either from the finding being in his opinion at variance with, and in contradiction to the evidence adduced, or from the punishment awarded not being commensurate with the offence charged, or from any other cause resting in his discretion.

On all occasions, the orders for the re-assembly of the Court are conveyed to the Senior Officer on the spot, who directs their reassembly accordingly, and at the same time communicates to the President such instructions as he may have received upon the subject of the revision of the proceedings, and which may be deemed necessary for the

* The proceedings of *all* District and Garrison Courts Martial, whether approved or *not*, should be recorded in the Regimental Books, and transmitted to the Judge Advocate General.

guidance of the Court in the reconsideration of the finding or sentence, and the order for the reassembly of the Court must be attached to and form part of the proceedings.

It must be here observed, that the proceedings can only be revised once, and that *no additional evidence with reference to the matter which forms the subject of reconsideration can be received by the Court on such revision* ; this last point is one which should be most carefully attended to by any Court Martial ordered to revise their Proceedings. But in the event of a prisoner having in the first instance been found *Not Guilty*, and afterwards, upon revision, found *Guilty*, it would be competent to the Court to receive evidence of previous convictions against him, and of his general character, &c.

14th Clause,
Mutiny Act.

Upon a patient and attentive reconsideration of the whole proceedings, it remains entirely with the Court to determine whether or not to make any alteration in the original finding or sentence. But it should be borne in mind always, that a power is vested in the hands of the confirming officer to *withhold his approval* from the proceedings, should he think fit so to do, and to remit, at his discre-

tion, the whole or any portion of the punishment to which the Prisoner might have been adjudged.

This is a material consideration, and will often influence the Court to alter or depart from their original sentence (where the Members can do so conscientiously) rather than risk a total defeat of justice, by persisting in a decision which the Court know the General commanding the District or other Superior Officer cannot approve.

REGIMENTAL COURTS MARTIAL.*

THE Commissioned Officers of every Regiment, Battalion, or Regimental Depot, commanded by a Field Officer, or of a Detachment of Ordnance Corps commanded by an Officer not under the rank of Captain, may by the appointment of their Colonel or Commanding Officer, without other authority than the Articles of War, hold *Regimental Courts Martial*, consisting of not less than five Officers,† unless it be found impracticable to assemble that number, when three may be sufficient.

10th Clause,
Mutiny Act.
115th Article
of War.

* The *form* of proceedings laid down in the Appendix for *District Courts Martial* applies equally to *Regimental* and *Detachment Courts Martial* in all respects, and should be always adhered to.

† USUAL DETAIL.

Captain _____ President.

Lieutenant _____	{	Members	}	Lieutenant _____
Ensign _____				Ensign _____

117th Article
of War.

The President must not be under the rank of Captain, excepting the trial shall take place *on the Line of March*, or on board any Transport ship, Convict ship, Merchant vessel, or Troop ship not in commission, or at any place where a Captain cannot be had; nor in any case is the Commanding Officer of the Regiment, Battalion, or Regimental Depot to which the offender belongs, to be a Member of the Court.

115th Article
of War.

A Regimental Court Martial, constituted in the manner above-mentioned, is empowered to inquire into and to decide upon such disputes or criminal matters as may come before it, and by a majority of votes to sentence the offender to—

10th and 22nd
Clause, Mu-
tiny Act.
131st Article
of War.

Corporal Punishment, not exceeding 50 Lashes; or—

Imprisonment, with or without hard labour, for any period not exceeding forty-two days; and may also direct that such offender be kept in Solitary Confinement for any portion or portions of such imprisonment, not exceeding fourteen days at a time, with an interval between them of not less duration than such period of Solitary Confinement. Should the Court direct the imprisonment to be soli-

tary only, the period must in no case exceed *fourteen days*.

In case of the award of *Corporal Punishment*, the confirming Officer may, if he think proper, commute such punishment to imprisonment, either solitary or with or without hard labour, not exceeding forty-two days, or may mitigate it to imprisonment, either solitary or with or without hard labour, for any period not exceeding twenty days, and to Corporal Punishment, to be inflicted in the Prison, not exceeding twenty-five lashes, and in no case must the Solitary Confinement under a commuted sentence exceed *seven* ~~fourteen~~ days, *at a time*.

121st, 122nd,
123rd Articles
of War.

24th Clause,
Mutiny Act.
27th Clause,
Mutiny Act.

The Court, in addition to either of the descriptions of punishment before mentioned, may further adjudge the offender to be put under stoppages, to make good any loss or damage occasioned by his neglect or misconduct, as already explained in allusion to the same subject, under the head of "District Court Martial," pages 11, 12, 13, 14.

132nd, 133rd,
134th Articles
of War.

Any Soldier convicted by a *Regimental* or Detachment Court Martial of Habitual Drunkenness, in having been Drunk *four* times

82nd Article
of War.

within *three hundred and sixty-five days*, or *twice* Drunk when on or for Duty or on Parade, or on the Line of March,* must in all cases be deprived by such Court of One Penny a day of his Pay, for any period *not exceeding one hundred and sixty-eight days*; and in addition to any such Punishment, the Court may (if it shall think fit) sentence such offender to any other punishment which the Court may be competent to award. All the instances of Drunkenness set forth in the charge, other than that which occurred last, must be proved by reference to the Defaulters' Book, or by satisfactory evidence of the entries therein.

82nd Article
of War.

Any Soldier who at at any time, within one hundred and sixty-eight days after a conviction for Habitual Drunkenness shall be Drunk twice, or shall be once Drunk when on or for Duty or on Parade, or on the Line of March, shall, on proof thereof, be again convicted of Habitual Drunkenness, and shall, over and above any former forfei-

* The words "Line of March" are to be understood in their literal and obvious sense; that is to say, as being applicable to the period alone during which the Soldier is actually on his day's march from one station or halting-place to another.

ture or forfeitures of Pay, be further deprived of One Penny a day of his Pay for any period *not exceeding one hundred and sixty-eight days*; and in addition to such punishment, the Court may sentence such offender to any other punishment which the Court may be competent to award.

Any Court Martial may also sentence any Soldier for being Drunk, when on any duty not under arms, or for Duty or on Parade, or on the Line of March, to be deprived of a Penny a day of his *Pay*, for any period not exceeding thirty days, in addition to any other punishment which such Court may be competent to award. *Vide* pages 171, 189. 81st Article of War.

But in no case shall any Soldier, by reason of being Drunk on or for Duty or on Parade, or on the Line of March, or by reason of Habitual Drunkenness, be at any one time placed under forfeitures of Pay, exceeding in the whole the sum of *three pence per diem*; such soldier, nevertheless, being again convicted of being Drunk on or for Duty or on Parade, or on the Line of March, or of Habitual Drunkenness, may be sentenced to any other Punishment which the Court is competent to award. 82nd Article of War.

It is considered unnecessary here to enter more fully into this subject, as the several points connected with "Habitual Drunkenness," which require particular notice, have already been observed upon under the head of "*District Courts Martial*," pages 37 to 46.

131st Article
of War.

No sentence of a Regimental Court Martial can be executed until the Commanding Officer shall have confirmed the same.

The different crimes and offences cognizable by Regimental Courts Martial, and which may be tried at the discretion of the Officer commanding a Corps or Depot, without the necessity of making application to the General Officer commanding the District or other Superior Officer, for permission so to do, are distinctly specified in the Articles of War.

Out of this class of offences the following have been selected as more peculiarly liable to occur amongst Soldiers ; and Forms of Charges, calculated to meet each case, have been framed, and will be found in the Appendix :—

	Appendix, No.
Habitual Drunkenness,	23
A Non-Commissioned Officer commanding a Guard, Picquet, or Patrol, suffering a Prisoner committed to his charge to escape, .	30

Appendix, No.

Neglecting to obey any Garrison or other orders on the part of Non-Commissioned Officers,	31
Neglecting to obey any Garrison or other orders on the part of Private Soldiers, . .	32
Drunk when on any duty under arms, or when on any duty not under arms, or for Duty or on Parade, or on the Line of March,	22, 33
Absence without leave,	34
Absence from Parade,	35
Making away with, spoiling, or damaging Arms, Clothing, Instruments, Equipments, Accoutrements, or Regimental Necessaries,	36
Dragoons ill-treating Horses,	37
Non-Commissioned Officers striking or ill-treating a Soldier,	38

In the disposal of those *minor* offences not *specifically* named, but falling within the provisions of the 108th Article of War, as being to the prejudice of good order and military discipline, Commanding Officers of Corps and Depots are guided by their own discretion, according to the circumstances of the case.

The number of crimes comprehended in the above-mentioned Articles of War, to the commission of which Soldiers are liable, renders it difficult to lay down precise forms of charges for every emergency.

The following offences, however, have been selected, and for these, forms of charges have been framed, and are annexed, subject always, of course, to *alteration* or *modification*, according to circumstances :—

	Appendix, No.
A Non-Commissioned Officer allowing a Prisoner in his Charge to get drunk, . . .	39
A Sentry neglecting his duty, by permitting a Prisoner to escape from the Guard-room, . . .	40
Persuading or endeavouring to persuade, a Sentry to disobey the orders of his Post, . . .	41
A Sentry disobeying the orders of his Post, . . .	42
Offering a bribe to a Sentry,	43
A Sentry receiving a bribe,	44
A Sentry delivering over the charge of his Post to another Soldier, without a Non-Commissioned Officer being present at the relief,*	45
A Soldier relieving another on Sentry, without being regularly posted by Non-Commissioned Officer of the Guard,*	46
A Corporal of a Guard permitting a Soldier to relieve another on Sentry, without being himself* present at the relief,	47
Absence without leave from Tattoo,	48
Drunk and Riotous in the Streets <i>or</i> Barracks,	49
Drunk and Riotous in the Street, and drawing his Bayonet,	49

* These offences, when committed on other than an ordinary Barrack Guard, are generally investigated by a District or Garrison Court Martial.

	Appendix, No.
Improper conduct to a Non-Commissioned Officer,	50
Falsely accusing a Non-Commissioned Officer of being drunk,	51
Breaking out of Barracks after hours, . . .	52
Ditto, when confined to Barracks, . . .	53
A Soldier striking a comrade,	54
Soldiers fighting and creating a disturbance in Barracks,	55
Telling a falsehood to screen a comrade, . .	56
Attempting to deceive Captain or Commanding Officer of the Troop or Company at an inspection of necessaries,	57
Aiding and abetting in the attempt, . . .	58
Preferring frivolous and unfounded complaints as to the quality of provisions or necessaries,	59
Firing off a Musket loaded with ball in his Barrack-room,	60

After the sentence of a Regimental Court Martial shall have been carried into effect, the proceedings should be carefully entered in the Regimental Court-Martial Book, and the original Minutes preserved with the records of the Corps, which may be done by docketing them, or by fixing them, by means of screws, into the Court-Martial Book.

Queen's Regulations,
page 391,
Para. 69

DETACHMENT COURTS MARTIAL,
HAVING THE POWER OF REGIMENTAL COURTS
MARTIAL.

10th and 11th
Clause, Mu-
tiny Act.
131st Article
of War.

THE Commissioned Officers of any Detachment or Portion of Troops which may at any time be serving in any part of her Majesty's dominions or elsewhere, or may be embarked on board a Transport Ship, Convict Ship, Merchant Vessel, or Troop Ship not in Commission, although such Detachment or Portion of Troops shall consist of men from different Regiments, may, by the appointment of the Senior Officer in command of the Detachment, District Station, Garrison, Barrack, Island, or Colony, provided he be not under the rank of a Captain, or in case such Troops shall be on board any Transport Ship, Convict Ship, Merchant Vessel, or Troop Ship not in Commission, may by the appointment of the Senior Officer on board whatever be his rank, without any other authority than the Articles of War, hold *Detachment Courts Martial*, within her Ma-

jesty's dominions, *or elsewhere*, consisting of not less than five Officers (unless it be found impracticable to assemble that number, when three may be sufficient), and may inquire into such disputes or criminal matters as may come before them, according to the rules and limitations observed by Regimental Courts Martial; but no sentence can be executed until the Superior Officer on the spot, *not being a member of the Court*, shall have confirmed the same.

Detachment Courts Martial of the foregoing description being vested *with precisely the same powers as Regimental Courts Martial* in the disposal of crimes falling within their jurisdiction, it is not considered necessary here to offer any further remark upon them than to observe that they should be regulated by the same principles which govern the proceedings of other Military Courts, and which have already been laid down in the preceding pages.

The proceedings of every Detachment Court Martial, like those of a Regimental one, are required by the Queen's Regulations to be entered in the Regimental Court-Martial Book; as soon, therefore, as the finding and

Queen's Regulations,
Page 391,
Para. 69.

sentence shall have been promulgated, the Confirming Officer should forward the proceedings to the Officer commanding the Corps to which the Prisoner belongs or is attached.

Whenever the Officer commanding a Detachment on *board Ship* shall find it necessary to have recourse to a Court Martial, it is suggested that the proceedings of the Court be carefully preserved, and a full report of the case made by the Confirming Officer to superior Military Authority, either before or immediately on Disembarkation, in order that the trial may be duly recorded in the Regimental Books, and noticed in the next Monthly Return of Courts Martial sent to the Adjutant-General of the Forces.

137th Article
of War.

It may not be superfluous in this place to observe, that the Mutiny Act and Articles of War regulate the Jurisdiction, while they confer extraordinary powers on Detachment *General Courts Martial* assembled without the Queen's dominions.

110th, 119th,
and 126th
Articles of
War.

163rd Article
of War.

All Trials by Courts Martial must take place between Eight o'clock in the morning

and Four in the afternoon, *except in cases which require an immediate example*, and except also in the East Indies, where such trials may take place between the hours of *Six* in the morning, and Four in the afternoon.

DRUM-HEAD COURTS MARTIAL.

COURTS MARTIAL, commonly called "*Drum-head Courts Martial*," were formerly often held where an example *on the spot* was considered necessary; but they are now very seldom resorted to. They are, in point of fact, Regimental or Detachment Courts Martial, and in cases of extreme emergency may be still held in the Field or on the Line of March—the responsibility, of course, resting in the Commanding Officer that a necessity existed for adopting such a summary proceeding. The members of all such Courts Martial must be duly *sworn*, and must *strictly* observe the formalities of any other Court Martial. Drum-head Courts Martial, however, are not restricted as to the hours of sitting. Their proceedings may be carried on at any time, under the 163rd Article of War, provided it shall be manifest that the case is *one which requires an immediate example*.

163rd Article
of War.

It will always be borne in mind that the General Regulations of the Army direct that all Courts Martial, before awarding any description of Punishment, should ascertain, in reference to the Prisoner's state of health, that the Sentence can be duly carried into effect. A form of Certificate (subject, of course, to modification, according to circumstances) will be found at the foot of page 101

Page 225,
Art. 26.

If the Certificate states that the Prisoner is unable to undergo labour requiring much bodily exertion, Courts should nevertheless award "imprisonment, *with such labour as, in the opinion of the Medical Officer of the Prison, the Prisoner may be equal to.*"

WITNESSES.

13th Clause,
Mutiny Act.

THE 13th Clause of the Mutiny Act provides,
“that all General and other Courts Martial
“shall administer an Oath to every Witness
“or other Person who shall be examined
“before such Court in any matter relating to
“any proceeding before the same;—and every
“Person, as well Civil as Military, who may
“be required to give or produce evidence
“before a Court Martial, shall, in the case of
“General Courts Martial, be summoned by
“the Judge Advocate General, or his Deputy,
“or the Person officiating as Judge Advocate;
“and in the case of all other Courts Martial,
“by the President of the Court;—and all
“Persons so summoned and attending as Wit-
“nesses before any Court Martial shall, dur-
“ing their necessary attendance in or on such
“Courts, and in going to and returning from
“the same, be privileged from arrest, and
“shall, if unduly arrested, be discharged by
“the Court out of which the Writ or Process
“issued by which such Witness was arrested;

“—or if such Court be not sitting, then by
“any Judge of the Superior Courts of *West-*
“*minster* or *Dublin*, or of the Court of Session
“in *Scotland*, or of the Courts of Law in the
“*East* or *West Indies*, or elsewhere, according
“as the case shall require, upon its being
“made to appear to such Court or Judge, by
“any affidavit in a summary way, that such
“Witness was arrested in going to or attend-
“ing upon or returning from such Court
“*Martial* ;—and all Witnesses so duly sum-
“moned as aforesaid who shall not attend
“on such Courts, or attending shall refuse
“to be sworn, or being sworn shall refuse to
“give evidence, or not produce the docu-
“ments under their power or control required
“to be produced by them, or to answer all
“such questions as the Court may legally de-
“mand of them, shall be liable to be attached
“in the Court of Queen’s Bench in *London* or
“*Dublin*, or in the Court of Session, or Sheriff
“or Stewart Courts in *Scotland*, or in Courts
“of Law in the *East* or *West Indies*, or in
“any of her Majesty’s Colonies, Garrisons, or
“Dominions in *Europe* or elsewhere respec-
“tively, upon complaint made, in like man-
“ner as if such Witness, after having been
“duly summoned or subpœnaed, had neglect-
“ed to attend upon a Trial in any proceed-

“ing in the Court in which such complaint shall be made. Provided always, that nothing in this act contained shall be construed to render an Oath necessary in any case where by Law a solemn affirmation may be made instead thereof.”

It will be understood that, although the provision contained in the above recited clause (enacted, it is presumed, as an additional Punishment to secure the efficiency of Military Courts) includes *Military* Witnesses, still that provision is not to be construed as merging the Military Offence into Civil Misdemeanour. Any Military Witness, therefore, who, after being ordered by Superior Military Authority to attend as a Witness on a Court Martial, shall fail to do so, or having attended shall refuse to be sworn, or being sworn shall refuse to give evidence, or to answer all such questions as the Court may legally demand of him, will be liable to be brought to trial by Court Martial. Forms of charges calculated to meet each case will be found in the Appendix, Nos. 61, 62, 63.

There is no specific *Form* of Summons for Civil Witnesses laid down either in the Mu-

tiny Act, or Articles of War ; but it is essential that this document, in whatever terms prepared, should be drawn up with the greatest care and precision, otherwise the object of the Legislature in providing a penalty for the non-observance of the Summons will be wholly defeated.

In the Appendix, No. 6, a Form of Summons is introduced, which may be found applicable in most cases.

The President of the Court Martial, before which the Civilian is required to appear, having prepared his Summons and affixed his signature thereto, his next course is to provide for its due service upon the individual named in it.

The Civil Authorities are always ready to afford their assistance and co-operation on such occasions. It is only necessary, therefore, whenever the emergency exists, for the President to put himself in communication with the nearest Magistrate or Chief of Police ; but this duty of serving a Summons upon a Civil Witness may generally be performed with equal effect through the military authorities ; and when this course is pursued,

the following suggestions may probably assist the object.

In the first place, care should always be taken that the Civilian receives reasonable notice of the day on which it is intended that the Court shall assemble, with reference to the distance he has to travel.

A steady Non-Commissioned Officer should be selected for this duty. He should be put in possession of the *original* Summons, as also a *copy* of it, which copy he will *serve* upon the party named, merely producing at the same time the original.

The Non-Commissioned Officer should be very exact as to the *hour*, the *day of the month*, and *place* of the service of the Summons, making the President of the Court acquainted with these particulars, and noting the same in ink on the back of the original, which he will deliver to the President, and hold himself prepared to make an affidavit of his having served the Summons, should the person summoned fail to attend on the Court, or attending should refuse to be sworn, or being sworn should refuse to give evidence, or to answer all such questions as the Court may legally put to him.

In the first of these assumed cases, namely, "a failure on the part of the person summoned to attend the Court," the President will immediately communicate the fact to the Officer who convened the Court, with a view to such ulterior measures being adopted for enforcing against the offending party the penalties prescribed by law, as the authorities at Head Quarters may deem expedient to direct.

If a Civil Witness in attendance shall refuse to be sworn, or being sworn shall refuse to give evidence, or to answer all such questions as the Court may legally put to him ; it will no doubt occur to the Court forcibly to impress upon the party the serious consequences to which he will be rendered liable if he persist in a line of conduct so prejudicial to the ends of justice.

If, after this caution, the Witness's determination remains unchanged, the fact should be recorded on the face of the proceedings, and a distinct report of all the circumstances should be made by the President to the Officer who convened the Court, with a view to the pleasure of the superior authorities at Head Quarters being taken as to the course to be adopted towards the offending party.

Claims for the expense of Witnesses, whether Civilian or Military, in attending Courts Martial, must be clearly stated, and forwarded with the recommendation of the President of the Court, so far as he considers the claim to be just and reasonable, for the decision of the Secretary of State for War. The actual and necessary period of the allowance must be distinctly specified in every case. See Article 18, of "Explanatory Directions," annexed to the Royal Warrant of the 23rd December, 1857.

In *Ireland* the applications are made through the President to the "Military Secretary;" and, if regular, are submitted by the General Officer Commanding the Forces to the Secretary of State for War.

COURTS OF INQUIRY.

THE 13th Article of War provides that, if a Non-Commissioned Officer or Soldier shall think himself wronged in any matter affecting his pay or clothing, by his Captain or other Officer commanding the Troop or Company to which he belongs, he is to complain thereof to the Commanding Officer of the Regiment, who is required to summon a *Regimental* Court of Inquiry, for the purpose of determining whether such complaint is just ; from the decision of which Court of Inquiry either party may, if he thinks himself still aggrieved, appeal to a *General* Court Martial.

There is no regulation fixing the number or rank of Officers to compose a Court of Inquiry.

This must obviously depend upon the nature and character of the circumstances

which form the subject-matter for investigation.

In *ordinary* cases of *Regimental* Inquiry, one Captain and two Subalterns constitute the Court. On other occasions, a Field Officer (or second in command) and two Captains are employed upon this duty, at the discretion of the immediate Commanding Officer.

In cases of a more serious nature, calling for the interference of superior authority, the Officer commanding should furnish the Major-General, or Senior Officer of the District (through the prescribed channel of communication), with an outline of the circumstances, accompanied by any observations which appear necessary for his information. He will thus be enabled to decide at once upon the course to pursue ; either by convening, of his own authority, a Court of Inquiry, consisting of three (or even five) Field Officers ; or by referring the whole case to Head Quarters, as in his judgment shall seem most proper.

Whenever a Court of Inquiry is ordered to assemble, either by the Commanding Officer of a Corps, or the Major-General or

Senior Officer of a District, it is always desirable that specific instructions should be conveyed to the President for the guidance of the Court. And, above all, it should be distinctly stated, whether they are to give an opinion on the case, or merely to confine themselves to a record of the facts elicited from the different Witnesses produced and examined.

The Court being assembled pursuant to order, the examination of the Witnesses is proceeded with, and the matter before the Court investigated according to the instructions communicated to the President.

A Form of Proceedings applicable to the generality of occasions will be found in the Appendix, No. 7.

It will be observed that Members of Courts of Inquiry are *not* sworn, neither are the Witnesses,* except in the case of a Soldier illegally absent. In other respects the proceedings assimilate as nearly as possible to ^{170th Article} of War.

* Witnesses should be cautioned by the President, that, although not on oath, their evidence is liable to be sworn to in the event of future judicial proceedings.

Courts Martial, both as regards the examination and cross-examination of Witnesses as well as the mode of recording their testimony on the Minutes, which should be prepared with the greatest care and accuracy.

The minutes of the proceedings, when closed, are signed by the President, and also by the Members, after which they are forwarded by the President to the Superior Officer who convened the Court, observing always the regular channel of communication.

If the superior authority should be satisfied that the Court have carried their investigation to the fullest extent in their power, and have furnished all the information necessary to a clear understanding of the subject, it only remains to approve the proceeding, and to dissolve the Court, directing the Members to return to their duty.

On the other hand, if the Court should appear to have omitted any point requiring notice, or that they should not have carried their investigation generally to the extent desired, they should be ordered to reassemble, with a view to the deficiency being supplied ; and that deficiency should be explained by

the convening authority in terms as clear as the original instructions under which the Court was first assembled.

It may be material in this place to observe, that a Court of Inquiry may be *reassembled as often as may be found necessary* ; and further, that new evidence may be received and recorded on every such occasion.

If there be an accused party, he should have notice of the sitting of the Court, and of the object of the inquiry, and be permitted, but not compelled, to be present during the examination of the Witnesses, and also be permitted to put any questions he may think proper, provided they are such as would be admitted by a Court Martial.

It will be understood that, although the above right is conceded to the accused, it is quite optional on his part to abstain from putting any questions to Witnesses, either *on examination in chief, or on cross examination*. And further, the accused may respectfully decline making any statement to the Court, touching his alleged misconduct, should he apprehend that such a course would operate against him, in the event of the institution of any ulterior judicial proceedings.

Whenever a Court of Inquiry involves a question of discipline, it must be remembered that such Court of Inquiry is always liable to lead to a Court Martial ; and as the Officers employed on the former Court cannot sit upon the latter, it is essential that a sufficient number of Officers should remain upon the spot to compose a District Court Martial, independent of those required for the Court of Inquiry (presuming always the case to be of that serious nature as to call for the interference of the superior Officer of the District) ; and in all cases where there is a deficiency, it will be desirable to refrain from ordering a Court of Inquiry till the pleasure of the proper authority is received on a statement or summary of the evidence, taken before the Commanding Officer and Adjutant, and forwarded for that purpose.

By this means a sufficient number of Officers will be available for judicial proceedings, which could not otherwise be entered upon without calling in assistance, possibly from a distant quarter, at an expense to the public, as well as at an inconvenience to the Service.

APPENDIX.



APPENDIX.

No. 1.

FORM REFERRED TO IN PAGE 10.*

_____ REGIMENT,

Head Quarters, _____ 18

APPLICATION FOR A _____ COURT MARTIAL.

SIR,—I have the honour to submit a charge [*or charges*] against No. _____ A.B., of the Regiment [*or Depot*] under my command, and request you will obtain the sanction of the Major-General [*or other officer*] commanding the Division that a _____ Court Martial may be assembled for his trial at _____

The Prisoner is now at _____

The Witnesses are at _____

I have the honour to be, Sir,

Your most obedient, humble Servant,

*Signature of
Commanding Officer,* }

The Assistant Adjutant-General,
or Brigade-Major.

CHARGE OR CHARGES.

[Here insert the charge or charges with accuracy and precision, both as to time, place, and circumstances, but without entering more into detail than is absolutely necessary for characterizing the offence.]

SURGEON'S CERTIFICATE.†

I certify that No. _____ A.B., of the _____ Regiment, is in a _____ state of health, and _____ to undergo Corporal Punishment or Imprisonment, solitary or otherwise, and with or without hard labour; and that his present appearance and previous medical history both justify the belief that hard labour employment will neither be likely to originate nor to reproduce disease of any description. The prisoner is [*or is not*, as the case may be] marked with the letter D.

*Signature of the Surgeon,
or Assistant Surgeon,* }

* This Form is equally applicable to *General Courts Martial*.

† The Certificates of Health, attached to the proceedings of Courts Martial, must invariably be in the handwriting of the Medical Officer by whom the prisoners are examined, and it must always be stated whether or not the prisoners are legibly marked with the letter D.

SUMMARY OF EVIDENCE.

1st Evidence _____ states, &c.

2nd Evidence, _____ states, &c.

3rd Evidence, _____ states, &c.

来

Rank and Name of the competent person
to appear before the Court to prove former
Convictions, &c., in compliance with the
W. O. Circular 772.—23rd July, 1834.

[illegible]

* In a case of "Desertion" it should be stated in the Summary of Evidence whether the Prisoner voluntarily surrendered himself, or was apprehended. It is also desirable that the *date* and *place* of a Deserter's commitment should be inserted, if such information can be afforded.

† The Subalterns returned are to be exclusive of those incompetent to sit upon Courts Martial from the shortness of their service.

Extract from the Court-Martial Book of previous
Convictions, against No. _____ A.B.

Date of Trial.	Descrip- tion of Court.	Crime.	Sentence, and by whom Confirmed.	Punishment.	
				Inflicted.	Remitted.

Extract from the Defaulters' Book.

Date and Place of Crime.	Crime.	Punishments, and Remarks.

N. B.—Acts of Drunkenness to be inserted in Red Ink.

No. 2.

FORM OF APPLICATION.

(Referred to in page 48.)

18

SIR, I request you will do me the honour to submit to the Major-General commanding the _____ Division [*or the Superior Officer, as the case may be*], the annexed charge [*or charges*] against No. _____ A. B. of the Regiment under my command, which, with the Major-General's sanction, I would wish to bring under the cognizance of a District [*or Regimental, as the case may be*] Court Martial.

It will be perceived that the crime laid to the Prisoner's charge is in *strictness* cognizable only by a General [*or District, as the case may be*] Court Martial; but as the offence has not been attended with any circumstances of an aggravated nature, and as the man's previous general character and conduct have been good, I venture to express the hope that the ends of discipline will in this instance be equally attained by bringing the Prisoner's conduct under the investigation of the inferior tribunal above mentioned.

I have the honour to be, &c,

Signature of
Officer commanding, } _____

The Assistant Adjutant-General,
or Brigade-Major.

No. 2.—*in continuation.*

CHARGE AGAINST No. ——— A.B. ——— REGIMENT.

Proposed for investigation by a *District* or *Regimental* Court Martial [*as the case may be*], under the 142nd Article of War.

The Charge,	} To be inserted in the order, and according to the Form laid down in pages 101, 102, 103.
Surgeon's Certificate,	
Summary of Evidence,	
Description, Return, &c.,	
Detail of Officers present,	
Extracts from Courts Martial and Defaulters' Books,	

Whenever the permission of a General Officer is obtained to try an offender by an inferior tribunal, care must be taken that the circumstance is duly noticed in the Monthly Return of Courts Martial, as directed by the 142nd Article of War.

No. 3.

FORM OF APPLICATION REFERRED TO IN PAGE 29.

RETURN OF MEN of the _____ in Confinement by Sentence of Courts Martial, for whose removal from their present Place of Custody the consent of _____ is solicited.

Head Quarters, _____ 18 _____

NAMES.	When and where tried.	Crime briefly stated.	Description of Court Martial [General, District, or Garrison].	Present Place of Confinement.	Sentence, Term, and Species of Imprisonment awarded.	Date of President's signing the Original Proceedings.	Unexpired Term of Imprisonment, and Nature of it.	REMARKS.

Signature of Commanding Officer, _____

I consent to the Removal of the above-named Men from their present place of Imprisonment, and to their being recommitted to confinement to such other Public Prison or Place of Confinement as the Officer Commanding the _____ Regiment shall appoint, there to undergo the remainder, or any part of their Sentence.

{ Signature of the Officer
Commanding the District,
or Confirming Officer.

No. 4.

DISCHARGE WITH IGNOMINY.

(Referred to in page 35.)

FORM OF APPLICATION FOR THE DISCHARGE
OF AN OFFENDER WITH IGNOMINY, PURSU-
ANT TO THE RECOMMENDATION OF A DIS-
TRICT COURT MARTIAL.

18

SIR,—Private _____ No. _____ of the Regiment [*or* Depot] under my command, having been recently convicted by a District Court Martial of “Disgraceful Conduct,” and having, in addition to the punishment to which he has been adjudged, been recommended by the Court to be marked with the letters B. C. and to be discharged from the Service with ignominy,* I have the honour to request that you will move the Major-General commanding the Division to take such steps as he may deem expedient, with a view to obtain the requisite authority for carrying the recommendation of the Court into effect.

I transmit herewith, enclosed, a copy of the charge upon which the Prisoner was tried, as also a copy of the finding and sentence of the Court, together with a

* No recommendation for a Prisoner to be marked with the letters B.C. can be carried into effect until the approval of the Commander in Chief is obtained.

descriptive return and statement of the man's services, likewise extracts from the Regimental Court-Martial and Defaulters' Books, which will put the Major-General in possession of the whole case.

I beg to transmit herewith a Certificate from the Surgeon [*or Assistant-Surgeon, as the case may be*], showing that the Prisoner cannot, for the reasons assigned, gain re-admission into the Service.

I have, &c.

Signed _____

Commanding _____ Regiment.

The Assistant Adjutant-General,
[or Brigade Major].

No. 5.

REFERRED TO IN PAGE 60.

NOTE.—*Before entering upon the Form of Proceedings of a Court Martial, the Author thinks it desirable to offer the following few remarks upon some points which may possibly be found useful in the course of a trial.*

As regards the challenge of Members, 154th Article of War.

IF the Prisoner objects to the President, such objection, unless disallowed by two thirds at least of the other Officers appointed to form the Court, and the grounds upon which it is made, must be referred to the decision of the authority by whom the President was appointed. If the Prisoner objects to any Officer other than the President, such objection must be decided by the President and the other Officers appointed to form the Court; the grounds of the objection offered by the Prisoner, and the decision of the Court thereon, being duly recorded on the Minutes.

Should the objection taken by the Prisoner be overruled, it should also be recorded on what grounds it was so.

Should the objection appear to the Court to be a valid one, it will be for the President to intimate the same to

the convening authority, in order that another Officer may be appointed to supply the place of the member objected to.

If a Prisoner states that he has no objection, his answer should be recorded, and his trial proceeded with; if he *refuses* to reply to the question as to his having any objection, such refusal, being recorded, may be considered by the Court as tantamount to his having *no objection*.

Amongst other legitimate causes of challenge are the following:—That the Officer objected to had been a member of a Court of Inquiry held to investigate the case; that he had been heard to express a previous opinion as to the Prisoner's guilt, with reference to the *immediate* offences imputed to him; or that, from age, deafness, or other infirmity, he was incompetent to discharge the duties of a member.

It is no valid cause of objection that he belongs to the Prisoner's Regiment, Troop, or Company; but if he were the Prosecutor, or was summoned as a Witness upon the trial, either for the Prosecution or for the Defence, such would be a proper cause of challenge; if, however, he was merely required to depose as to *character*, this objection would be overruled, because he could be sworn to speak to this fact while member of the Court, without interfering with his judicial capacity. In no case would it be proper that the Officer selected to depose to *previous convictions* should be a member of the Court.

Cross examination of Witnesses by the Prisoner.

Every Prisoner, when on trial, has a right to cross examine the Witnesses against him. If he puts questions before the examination on the part of the Prose-

cution is concluded, he should be told to wait till his turn arrives. If he puts a question which is manifestly irrelevant, the Court may declare it unfit to be asked or answered; but this power should be sparingly exercised, for it is no light matter to check a Prisoner in his defence. If the question is overruled, it is essential to the regularity of the proceedings that the question shall be recorded in the very words in which it was framed, with a minute of the reasons of the Court for refusing to admit it, in order that the Revising Officer may judge whether the question was properly overruled or not.

It should always be noticed in the proceedings that a Prisoner had "declined to cross-question the several Witnesses," when such is the case. It is important that it should appear, as implied by such an entry, that the prisoner was asked with regard to each of the Witnesses, whether he wished to ask them any questions or not.

When a Prisoner pleads guilty, and perseveres in that plea, the Queen's Regulations (page 222, Art. 14) require, notwithstanding, that the Court shall receive and record on their proceedings such evidence as may afford a full knowledge of the circumstances, it being essential that the facts and particulars should be known to those whose duty it is to report on the case, as well as to those with whom the discretion rests to carry the sentence into effect. Prisoner's Plea.

Thus the Prisoner's plea of "Guilty" must be considered as final, as regards his conviction; for the Court, if satisfied that the offence had been committed, would

not be justified in acquitting him on the ground of the insufficiency of the evidence produced ;—the plea of guilty must be adopted and acted upon, unless the Court should have good reason to believe that it was offered in ignorance or mistake, or that it was in fact untrue.

It will be understood that, although a Prisoner may have pleaded guilty, he is not thereby precluded from addressing the Court in mitigation of his punishment, and should therefore be allowed to offer such observations as might appear to him useful in extenuation of his offence ; and also to produce evidence as to character.

Reprimanding
Non-Commissioned Officers
by sentence of
Courts Martial.

Reprimanding a Non-Commissioned Officer, by Sentence of a Court Martial, is positively forbidden, as such a Sentence is reserved exclusively for the *Commissioned* Officer.

Recommendation of a Prisoner to mercy.

In all cases where Courts Martial may be induced to recommend a Prisoner to favourable consideration, it is particularly desirable that such recommendation should be wholly distinct from the sentence, and be embodied in a separate communication, signed by the President, on behalf of the Court, and appended to the proceedings.

No. 5—*In continuation.*

FORM OF PROCEEDINGS,

(Referred to in page 60.)

Proceedings of a District or Garrison Court Martial,
 assembled at _____, on the _____ 18 __, by
 order of Major-General _____ commanding the
 _____ Division [*or other Superior Officer, as the case
 may be*], bearing date the _____

President,* _____

_____ Regiment.

MEMBERS.

CAPTAIN _____	Regt.	CAPTAIN _____	Regt.
LIEUTENANT _____	"	LIEUTENANT _____	"
ENSIGN _____	"	ENSIGN _____	"

[This is the usual detail with regard to the *rank* of the members, but of course it is subject to variations according to circumstances, and with reference to the number of Officers of each rank immediately available.]

No. _____ A. B., _____ of the _____ Regiment
 is brought Prisoner before the Court.

* In no case to be the Confirming Officer, or the Officer whose duty it has been to investigate the charges on which the Prisoner is to be arraigned, nor in any case whatever under the degree of a Captain. 117th Article of War.

The 153rd Article of War provides "that no Officer serving in the Militia shall sit in any Court Martial upon the trial of any Officer or Soldier serving in any of our other forces; nor shall any Officer in our other Forces sit in any Court Martial upon the trial of any Officer or Soldier serving in the Militia."

No. 5—*In continuation.*154th Article of
War.

The order for convening the Court having been produced and read, and the names of the President and other Officers appointed to serve upon the Court having also been read over, in the hearing of the Prisoner, the following question is put by the President to the Prisoner :—

Question. A. B., you have heard read over the names of the President and other Officers appointed to sit upon your Court Martial, —Have you any objection to be tried by the President, or by any of the Officers appointed for this duty?

Answer. [Should the Prisoner object, *vide* p. 109 for instructions how to proceed.]

The President and Members being duly sworn,* the Prisoner No. _____, A. B., of the _____ Regiment, is arraigned upon the following charges :—

1st Charge.
2nd Charge.
&c. &c. &c.

Question from the Court., A. B., are you guilty, or not guilty, of the crimes laid to your charge?

Answer, [*Vote* pp. 111, 112.]
[The Witnesses for the Prosecution are then examined.]

* For the Form of Oaths to be taken by the President and Members of Courts Martial, as also by Witnesses, *vide* Appendix, Nos. 68, 69.

No. 5—*In continuation.*

1ST WITNESS FOR THE PROSECUTION. } C. D., of the _____ Regiment, being duly sworn, and the charges read to him, informs the Court that

[The evidence given by a Witness should always be read over to him before he is cross-examined or questioned by the Court.]

The Prisoner declines cross-examining this witness* [*Vide* p. 111.]

Question from the Court.

Answer.

2ND WITNESS.. . . . E. F., being duly sworn, and the charges read to him, informs the Court that .

Cross-examined by Prisoner. } [*Vide* pp. 110, 111.]

Answer

Question from the Court.

Answer.

3RD WITNESS.. . . . G. H. [as above, observing the same order in the examination of the Witness.]

4TH WITNESS.. . . . J. K. [as above.]

The Prosecution here closes, and the Prisoner is put upon his defence.

* It should always be noticed in the Proceedings that a Prisoner had "*declined* to cross-question a witness," when such is the case.

No. 5—*In continuation.*

[Should it be necessary at this or any other stage of the trial to adjourn the Court from the lateness of the hour, the adjournment should be recorded in the proceedings as follows:]—

It being four o'clock, the Court are adjourned till ten o'clock to-morrow morning.

18

The Court having met pursuant to adjournment, and the same Members being present as yesterday, the Prisoner's defence is proceeded with.*

DEFENCE.

DEFENCE. The Prisoner, No. _____, A.B., of the _____
being put upon his defence, states . . .

1ST WITNESS FOR THE DEFENCE. } L. M., of the _____, being duly sworn and
the charges read to him, states . . .

Cross-examined by Prosecutor. }

Question by the Court.

* Should any casualty among the members occur during the adjournment, or at any stage of the trial, the President will suspend proceedings, and report the circumstance to the Officer by whose order the Court was convened.

No. 5—*In continuation.*

2ND WITNESS. . . . N. O., of the_____, being duly sworn, and
the charges read to him, states

[As above, observing the same order in the
examination of the Witness.]

3RD WITNESS, AS TO } P. Q. is called upon by the Prisoner to
CHARACTER. } depose to his previous character and
conduct.

P. Q., having been duly sworn, states . . .

The Prisoner having closed his defence, the
Court is cleared for the purpose of
deliberating upon the whole of the pro-
ceedings.

FINDING.

FINDING [in case of } The Court having maturely considered the
Acquittal]. } evidence in support of the Prosecution,
together with what the Prisoner has
urged in his defence, are of opinion that
he, the Prisoner, No. _____, A. B., of
the _____, is *not guilty* of either of the
charges preferred against him, and do
therefore acquit him of the same.

Signature of the President, _____

Dated at _____ 18

Approved and confirmed.

Signature of the Major-General
commanding the Division [or
other Superior Officer], _____

Dated at _____ 18

No. 5—*In continuation.*

FINDING.

FINDING [in case of } The Court having maturely weighed and
 Convictions]. } considered the evidence in support of the
 Prosecution, together with what the
 Prisoner has urged in his defence, are of
 opinion, with regard to the first charge,
 that he, the Prisoner, No. _____, A. B.,
 is *guilty*.

With regard to the second charge, that he,
 the Prisoner, A. B., is *guilty*.

The Court being re-opened, the Prisoner
 is again brought before it.

FORMER CONVICTIONS.

_____Adjutant [*or other competent
 individual,*] of the _____ Regiment, being
 duly sworn, is questioned by the Court.

[In a case of "Desertion," the Court should here
 question the Witness as to whether the Prisoner
 had surrendered himself, or was apprehended, and
 record the answer given.]

Question by the Court. Has the Prisoner been warned that his for-
 mer convictions would be brought in
 evidence against him?

No. 5—In continuation.

Answer. "Yes," or, "There are none," *as the case may be.*

[It is of the greatest importance that this last question, and the answer given, should be invariably put by the Court, and duly recorded, whether there are any former convictions or not, in order that the Confirming Officer, when the proceedings are laid before him, may be satisfied that there has not been any omission on this point.

If by the answer given it shall appear that there are previous convictions against the Prisoner,]—

Question by the Court. What record have you to produce in proof of former convictions against the Prisoner?

Answer. On Reference to the Regimental Court-Martial Book [*or the Regimental, or Company's Defaulter Book, as the case may be*], now laid before the Court, it appears the Prisoner was tried by a _____ Court Martial, at _____, on the _____, for _____, of which he was convicted, and sentenced to _____, of which _____ was inflicted.

Also by a _____ Court Martial at _____, on the _____, for _____, of which he was likewise convicted, sentenced to _____, of which _____ was inflicted.

[In cases where it may be inconvenient to produce either of the Books above mentioned, and that the Court shall be satisfied with the reasons assigned for its non-production (which reasons should be recorded in the proceedings), it will be sufficient for the Court to receive in evidence of any former conviction by Court Martial, a certificate of such former conviction, framed in the form directed by

No. 5—*In continuation.*

the 157th Article of War, and authenticated in the manner therein required.

It would, no doubt, tend materially to the convenience of the Service, if the certificates of former convictions laid before Courts Martial were drawn up generally in the same shape. In the Appendix, No. 8, a Form of Certificate is introduced, which, it is believed, will be found to meet the object in view.

In proof of any *Civil* conviction, that is, any conviction by a Court of ordinary criminal jurisdiction, where the offence charged in the indictment, so far as the charge of which the prisoner was convicted, was of a *Felonious*, *Fraudulent*, or *Unnatural* nature, the Court should require the production of a certificate, purporting to be signed by the Clerk of the Court, or other officer, or by the Deputy of such Clerk, containing the substance and effect of the indictment, together with the Judgment of the Court thereon; or, if such certificate cannot conveniently be obtained, a copy of it, duly certified by the officer producing it, should be laid before the Court. In every case a certified *copy* should be appended to the proceedings, the original being retained amongst the regimental records.]

GENERAL CHARACTER :

Question by the Court. } State what you know of the Prisoner's general character.

Answer. ,

LENGTH OF SERVICE, AND AGE :

Question by the Court. } How long has he been in the Service, and what is his age?

Answer.

No. 5—*In continuation.*

Question by } To what class does the Prisoner belong?
the Court. }

Answer.

Question by } Is the Prisoner in possession of any decora-
the Court. } tions or other honorary rewards?

Answer.

The Court is again cleared.

SENTENCE.

The Court having found the Prisoner guilty of both the charges preferred against him, which being in breach of the Articles of War,—*and taking into consideration his former convictions and general bad character*,—do now sentence him, the Prisoner, No. _____, A.B., of the _____ Regiment, to

[If there are no previous convictions, and that the Prisoner's general character has not been bad, that part of the wording of the sentence will of course be omitted.

If the Prisoner stands convicted of "*disgraceful conduct*," and the Court shall be desirous of recommending his discharge with *ignominy*, the concluding part of the sentence runs thus :]—

The Court also adjudge the Prisoner to the forfeiture of all claim to additional Pay, good conduct Pay, and to Pension on discharge; and further recommend that

No. 5—*In continuation.*

he be discharged from Her Majesty's service with ignominy.

Signature of the President, _____

Dated at* _____ *this* _____ *day of* _____ 18

Approved and confirmed.

Signature of the Major-General
Commanding the Division [or
other Superior Officer], _____

Dated at _____ *this* _____ *day of* _____ 18

Particular care should always be taken to leave ample space for the insertion of any remarks which the Confirming Officer may deem it necessary to make on his confirmation of the proceedings.

In the event of the Major-General of the Division (or other Superior Officer on whom the duty of confirming the proceedings devolves) deeming it expedient to require the Court to reconsider their finding or sentence, it is usual to return the proceedings to the President, through the Officer commanding at the Station where the Court was convened, accompanied by a communication setting forth the particular reasons which have called for a revisal of the former decision.

The result of the Court's reconsideration may be stated (upon a general principle) in the following terms on the face of the proceedings :—

_____ 18

The Court are reassembled by order of Major-General _____ [*or other Superior Officer*] for the purpose of reconsidering the former finding or sentence.

* The *date* when the President signs the Proceedings should be invariably inserted after his Signature.

No. 5—*In continuation.*

[The Letter, Order, or Memorandum, containing the Instructions to the Court, and the reasons of the revising Authority for requiring a Revision of the Finding or Sentence, or an authenticated copy thereof, should be attached to, and form a part of, the Proceedings of the Court.]

Queen's Regulations and Orders for the Army, p. 223, Art. 16.

The Court having attentively weighed and reconsidered the whole of the evidence adduced, both on the part of the prosecution and defence, as well as the observations of the Revising Officer, are of opinion that he, the Prisoner, No. _____, A. B., is *not guilty* of the first charge, and do therefore acquit him of the same. With regard to the second charge, the Court are of opinion that the Prisoner, A. B., is guilty.*

The Court do therefore now sentence the Prisoner, No. _____, A. B., to

Signature of President, _____

Dated at _____ *this* _____ *day of* _____ 18

Approved and Confirmed.†

Signature of the Major-General
Commanding the Division [or
other Superior Officer]. } _____

Dated at _____ *this* _____ *day of* _____ 18

* If a Prisoner is in the first instance *acquitted*, but upon revision the Court reverses its former finding, and finds the Prisoner "Guilty," the Court on revision can legally receive evidence of *former convictions and general character*, and would act properly in doing so.

† When the Court Martial has been confirmed, and the sentence promulgated, the charges, finding, and sentence are to be recorded in the Regimental Books, and then returned to the President, who encloses them to the Judge Advocate General, *London*, agreeably to the 160th Article of War.

APPENDIX.

No. 5—*In continuation.*

If a case should occur in which the Court consider themselves called upon to *adhere* to their former finding and sentence, it should be so stated in the following or similar terms, viz. :—

The Court having attentively weighed and reconsidered the whole of the evidence adduced, both on the part of the Prosecution and Defence, as well as the observations of the Revising Officer, are still of opinion that the Prisoner is guilty of both the charges exhibited against him, and do therefore adhere, most respectfully, to their former sentence, viz.

CONFIRMED,

but not approved [*as the case may be*], for the following reasons:

[illegible]

Under all the circumstances of the case, I deem it expedient to direct that the punishment awarded shall be remitted, and that the Prisoner shall be released, and ordered to return to his duty.

*Signature of the Major-General
of the Division [or other Supe-
rior Officer].*

No. 6.

SUMMONS TO A CIVIL WITNESS.

(Referred to in page 90.)

Whereas a _____ Court Martial has been ordered to assemble at _____ on _____ the _____ day of _____, for the trial of _____, of the _____ Regiment. And whereas it has been stated to me that your evidence will be material on the part of the Prosecution [*or Defence, as the case may be*]

By the power and authority in me vested by the 13th clause of the Mutiny Act, I hereby order you personally to appear before the said Court on the _____ day of _____ at _____ o'clock, and to attend from day to day until you shall be duly discharged. Fail not at your peril.

Given under my hand and seal,
 at _____, this
 _____ day of _____
 _____ *President.*

To



[NOTE.—In case the witness should be required to produce any document or documents to the Court, the fact should be so stated in the body of the summons, particularizing the nature of the document or documents to be produced.]

No. 7.

FORM OF A COURT OF INQUIRY.

(Referred to in page 95.)

Proceedings of a Court of Inquiry held at _____
on the _____ day of _____, by order of _____

Dated _____, 18

DETAIL.

One Captain as President, and two Subalterns as Members; or, one Field Officer, and Two Captains; or three Field Officers; or, five Field Officers.

This detail to be regulated according to circumstances, and with reference to the suggestions laid down in pages 94, 95.

[In all cases where specific instructions* are communicated to the President, such instructions to be read, and duly considered by the Court, previous to their entering upon the subject of inquiry.]

No. _____ of the _____ Regiment, the accused, being present, the order for the assembling of the Court was produced and read, when the Court proceeded to the examination of Witnesses.

1st Witness against the accused, _____, of the _____ Regiment, states.

* These instructions, or a certified copy of them, should be invariably attached to and sent in with the Proceedings.

No. 7—*In continuation.**Cross-examined by the accused.**Answer.**Question by the Court.**Answer.**2nd Witness against the accused, _____, of the
_____ Regiment, states,**Cross-examined by the accused.**Answer.**Question by the Court.**Answer.**3rd Witness against the accused, _____, [as above,
observing throughout the same order in the examination of
the Witness].*

[All the Witnesses on the part of the accuser having been examined,
the accused is at liberty to make his statement, and to call Witnesses
in his behalf. Should he adopt this course, the Court will proceed in
their investigation as follows :—]

_____, the accused, states, _____, and
begs to call upon _____.

*1st Witness for the accused, _____, of the
_____ Regiment, states,*

No, 7—*In continuation.*

Cross-examined by the accuser

Answer.

Question by the Court.

Answer.

2nd Witness for the accused, _____, of the _____ Regiment, states _____ [as above, observing throughout the same order in the examination of the Witness].

[The accused having nothing further to offer, and not having any more witnesses to examine, the Court is cleared; the Minutes of evidence are signed by the President and Members, and forwarded to the Convening Officer, through the regular Channel, unless the Court shall have been required to give an opinion, in which case the following form should be adopted.]

OPINION.

The Court having duly considered the evidence brought forward against the accused, as well as what he has offered in exculpation, are of opinion that

_____, *President.*

_____ } *Members.*

*

Approved.

Signature of the Officer commanding the Regiment or Depot; or Major-General [or Senior Officer] commanding the Division [as the case may be.] }

* After the Proceedings are duly signed by the President and Members, they should be forwarded to the authority who convened the Court, through the regular channel.

No. 7—*In continuation.*

If, however, the authority who convened the Court shall discover that there has been any omission in the proceedings, and that the investigation has not been carried to the extent necessary, the proceedings are returned to the President,* through the Officer commanding at the Station where the Court was convened, with directions to the Court to reassemble for the purpose of supplying the deficiency, and a statement of the particular points upon which further information is desired.

On the reassembling of the Court, the President may recall any of the previous Witnesses, and put such additional questions to them as may appear desirable, with a view to elicit every possible information that the case admits. The Court may also examine fresh witnesses, if any are forthcoming, conducting their proceedings precisely as before, and concluding their investigation in the manner already stated.

* In cases of *Regimental Inquiry*, the Proceedings are returned *direct* to the President.

No. 8.

FORM REFERRED TO IN PAGE 119.

CERTIFICATE containing an Entry of the previous convictions by Courts Martial, duly confirmed, of No. _____ A.B. _____ of the _____ taken from the Court-Martial Book [*or* Regimental, *or* Company's Defaulter Book, of the _____ Regiment, *as the case may be*].

* Description of Court Martial by which tried.	Place and Date of Trial.	Copy of the Charges upon which tried. [<i>The Charges should be given in full.</i>]	Copy of the Finding and Sentence of the Court.	Copy of the Minute of Confirmation.

Authenticated by* _____

Dated at _____

this _____ day of _____, 18 .

* Signature of the Officer certifying to the correctness of the extract.

FORM OF CHARGES.*

* It is to be observed that it has been decided by competent authority, that the words at the commencement of the Charge should contain *the description of the crime*; the facts set forth in the after part of the Charge should contain a statement of the acts constituting the prisoner's misconduct.

No. 9.

MUTINY.

(Referred to in page 56.)

CHARGE.

15th Clause,
Mutiny Act.
40th Article of
War.

For that before, and at the time of the Mutiny hereinafter mentioned, the _____ Regiment, in which A. B. was doing duty as a _____, being stationed at _____, and the said A. B., intending to excite Mutiny in the ranks of the said Regiment, and to cause disobedience and resistance to the lawful authority of the Commanding Officer, did, in furtherance of the said intent, a short time previous to the said Mutiny, incite, meet, advise, and combine, with certain of the said soldiers, to join in the intended Mutiny; whereupon afterwards, on the _____, at _____ aforesaid, when the Regiment was in the course of its duty on parade, the private soldiers of the same did then and there Mutiny, by disobeying the lawful command of _____, their Superior and Commanding Officer, then being in the execution of his office, and repeatedly giving the aforesaid command, in which Mutiny the said A. B. was present and joining, and which Mutiny the said _____ did promote, further, and excite.*

* It is difficult to suggest a General Form to meet a supposed case of Mutiny.

The above Form of Charge assumes that the incitement to Mutiny was followed up by *actual* Mutiny; but the exciting to Mutiny is of itself a crime, or the joining with others in mutinous conspiracy, though the conspiracy be discovered, and actual disobedience or other ill consequences be prevented.

Where an offender is charged with having begun, or incited, or caused Mutiny, the acts done, or language used by him, should be distinctly stated; so, if charged with joining, the facts or language showing a Mutinous Combination by others should be stated in the Charge.

No. 9.

MUTINY.

(Referred to in page 56.)

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Death; or

Penal servitude for any term not less than ~~four~~ ^{five *} years;

or,

Corporal Punishment, not exceeding 50 lashes; or,

Solitary Confinement, not exceeding 14 days; or

Imprisonment with or without hard labour; or,

Corporal Punishment and Imprisonment combined; or, at the discretion of the Court to be kept in *Solitary Confinement* for any portion or portions of such imprisonment, not exceeding 14 days at a time, nor 84 days in any one year, with intervals between the periods of Solitary Confinement, of not less duration than such periods (*vide* pages 11, 19, 20); and also the forfeiture of all advantage as to additional Pay, (if in the actual receipt of any), good conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case.

15th and 16th
Clauses, Mu-
tiny Act.
40th Article
of War.

22nd, 23rd,
24th Clauses,
Mutiny Act.

Although such a case of delinquency can scarcely ever occur, yet if committed on the *Line of March*, and an example is *absolutely necessary on the spot*, a *Regimental Court Martial* is empowered to try the offender, and to award

11th Clause,
Mutiny Act.
137th Article
of War.

Corporal Punishment, not exceeding 50 lashes; or

Solitary Confinement, not exceeding 14 days; or,

Imprisonment, with or without hard labour, not exceeding 42 days; or,

131st Article
of War.

If the Court shall think fit, the offender to be kept in Solitary Confinement for a portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

* Hqd Circular Memo: dated.
15 October 1864.

No. 10.

STRIKING A SUPERIOR OFFICER, OR USING
OR OFFERING VIOLENCE AGAINST HIM.

(Referred to in page 56.)

CHARGE.

15th Clause,
Mutiny Act.
41st Article of
War.

For having at _____, on or about the _____ struck [with his clenched fist, *or* open hand, *or* missile, *or* weapon, *as the case may be*] on the _____ [head, face, *or* other part of the body] _____, of the _____, he, the said _____, being his (the prisoner's) Superior Officer, then and there in the execution of his office.

OR,

15th Clause,
Mutiny Act.
41st Article of
War.

For having at _____, on or about the _____ offered, or used [*as the case may be*] violence against _____, by _____ [*here state the precise nature of the violence used or offered*], he, the said _____, being his Superior Officer, then and there in the execution of his office.*

* It may not be out of place here to remark, that if there be no attempt to *use* violence, that is to say, if a sword, or musket, or other weapon be raised or brandished in a threatening manner *at a distance* from the person threatened, or if it be coupled with a threat of *future* and not of *present* violence, the crime does not amount to the "Offer of Violence" contemplated by the 41st Article of War. The offence should be described as Threatening Language or Gesture, or both (*as the case may be*); but whenever a prisoner's conduct, though unaccompanied by present violence, indicates an intention to commit violence, which is *only prevented by the interference of a third party*, the attempt is in itself an "Offer of Violence," and ought to be so charged.

No. 10.

STRIKING A SUPERIOR OFFICER, OR USING
OR OFFERING VIOLENCE AGAINST HIM.

(Referred to in page 56.)

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Death ; or,
Penal Servitude for any term not less than ^{five} ~~four~~ years ; 15th and 16th
or, Clauses, Mutiny Act.
Corporal Punishment, not exceeding 50 lashes ; or, 41st Article of War.
Solitary Confinement, not exceeding 14 days ; or,
Imprisonment with or without hard labour ; or,
Corporal Punishment and Imprisonment combined ; 22nd, 23rd,
and, at the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such 24th Clauses,
imprisonment, not exceeding 14 days at a time, nor Mutiny Act.
84 days in any one year, with intervals between the
periods of Solitary Confinement, of not less duration
than such periods ; and also the forfeiture of all advantage
as to additional Pay (if in actual receipt of any),
good conduct Pay, and Pension on Discharge, which
might have otherwise accrued from the length of his
former service ; or the forfeiture of such advantage
absolutely, whether it might have accrued from past
service, or might accrue from future service, according
to the nature of the case.

BY DISTRICT COURT MARTIAL,

When duly authorized to be investigated by such a 142nd Article
tribunal, under the 142nd Article of War. of War.

Corporal Punishment, not exceeding 50 lashes ; or
Solitary Confinement, or Imprisonment as above.—*Vide*
pp. 11, 19, 20.

BY REGIMENTAL COURT MARTIAL

(On the Line of March).

Corporal Punishment, not exceeding 50 lashes ; or, 11th Clause,
Solitary Confinement, not exceeding 14 days ; or, Mutiny Act.
Imprisonment with or without hard labour, not exceeding 42 days ; or, 131st Article
of War.

If the Court shall think fit, the offender to be kept in
Solitary Confinement for a portion or portions of such
imprisonment, not exceeding 14 days at a time, with an
interval between them of not less duration than such
period of Solitary Confinement.

No. 11.

OFFERING VIOLENCE IN A MILITARY PRISON.

(Referred to in page 56.)

CHARGE.

15th Clause,
Mutiny Act.
41st Article of
War.

For Insubordinate and Outrageous Conduct, in having, when confined in the Military Prison at _____ on or about the _____, struck [used, or offered violence against, *as the case may be*,] _____, of the _____ [a visitor of the said Prison, or other his Superior Military Officer, *as the case may be*], in having, &c. [*here describe accurately the nature and extent of the offence*], he the said _____ being then and there in the execution of his offence.*

* It may be proper here to observe, that a Court Martial is not empowered to take cognizance of violence offered to the *Governor* or other regularly appointed Officer and Servants of the Prison.

No. 11.

OFFERING VIOLENCE IN A MILITARY PRISON.

(Referred to in page 56.)

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Death; or,
 Penal Servitude for any term not less than ^{five}~~four~~ years; or,
 Corporal Punishment, not exceeding 50 lashes; or,
 Solitary Confinement, not exceeding 14 days; or,
 Imprisonment with or without hard labour; or,
 Corporal Punishment and Imprisonment combined;
 and,

15th and 16th
 Clauses, Mu-
 tiny Act.
 41st Article of
 War.

At the discretion of the Court, to be kept in *Solitary* Confinement for any portion or portions of such imprisonment, not exceeding 14 days at time, nor 84 days in any one year, with intervals between the periods of Solitary Confinement of not less duration than such periods; and also the forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on discharge, which might have otherwise accrued from the length of his former service; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case.

22nd, 23rd,
 24th Clauses,
 Mutiny Act.

BY DISTRICT COURT MARTIAL.

When duly authorized to be investigated by such a tribunal, under 128th Article of War,
 Corporal Punishment, not exceeding 50 lashes; or,
 Solitary Confinement; or,
 Imprisonment with or without hard labour, as above.
Vide pages 11, 19, 20.

142nd Article
 of War.
 128th Article
 of War.

No. 12.

DISOBEYING THE COMMAND OF A SUPERIOR
OFFICER.*(Referred to in page 56.)*

CHARGE.

15th Clause,
Mutiny Act.
42nd Article of
War.

For having at _____, on or about the _____,
disobeyed the lawful command of _____, his
Superior Officer, in having [*here describe the precise
nature of the act of disobedience imputed to the Prisoner*].

No. 12.

DISOBEYING THE COMMAND OF A SUPERIOR OFFICER.

(Referred to in page 56.)

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Death; or
 Penal Servitude for any term not less than ⁵4 years; or,
 Corporal Punishment, not exceeding 50 lashes; or
 Solitary Confinement, not exceeding 14 days; or,
 Imprisonment with or without hard labour; or,
 Corporal Punishment and Imprisonment combined;
 and,

15th and 16th
 Clauses of Mu-
 tiny Act.
 42nd Article of
 War.
 22nd, 23rd and
 24th Clauses,
 Mutiny Act.

At the discretion of the Court to be kept in *Solitary Confinement* for any portion or portions of such imprisonment, not exceeding 14 days at a time, nor 84 days in any one year, with intervals between the periods of Solitary Confinement of not less duration than such periods; and also the forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case.

BY DISTRICT COURT MARTIAL,

When duly authorized to be investigated by such a tribunal under the 142nd Article of War.

142nd Article
 of War.

Corporal Punishment, not exceeding 50 lashes; or
 Solitary Confinement or Imprisonment as above. *Vide*
 pages 11, 19, 20.

128th Article
 of War.

BY REGIMENTAL COURT MARTIAL

(On the Line of March).

Corporal Punishment, not exceeding 50 lashes; or
 Solitary Confinement, not exceeding 14 days; or,
 Imprisonment, with or without hard labour, not ex-
 ceeding 42 days; or,

11th Clause,
 Mutiny Act.
 131st Article
 of War.

If the Court shall think fit, the offender to be kept in Solitary Confinement for a portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 13.

SLEEPING ON HIS POST.

(Referred to in page 56.)

CHARGE.

15th Clause,
Mutiny Act.
61st Article of
War.

For having been found sleeping on his Post, when sentry over _____, at _____, on or about the night of _____ [*or the morning of the _____, as the case may be*].

LEAVING HIS POST BEFORE BEING
RELIEVED.

CHARGE.

15th Clause,
Mutiny Act.
61st Article of
War.

For having, before being regularly relieved, left his Post when sentry over _____ at _____, on or about the night of the _____ [*or the morning of _____, as the case may be*].

No. 13.

SLEEPING ON HIS POST.*

(Referred to in page 56).

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Death; or,
 Penal Servitude for any term not less than ⁵ ~~4~~ years; 15th and 16th
 or, 15th and 16th
 Solitary Confinement, not exceeding 14 days; or, 61st Article of
 Imprisonment with or without hard labour; and, 61st Article of
 At the discretion of the Court, to be kept in *Solitary*
Confinement for any portion or portions of such impri-
 sonment, not exceeding 14 days at a time, nor 84 days
 in any one year, with intervals between the periods of
 Solitary Confinement of not less duration than such
 periods; and also the forfeiture of all advantage as to
 additional Pay (if in actual receipt of any), good Con-
 duct Pay, and Pension on Discharge, which might have
 otherwise accrued from the length of his former service;
 or to forfeiture of such advantage absolutely, whether
 it might have accrued from past service, or might ac-
 crue from future service, according to the nature of the
 case.

BY DISTRICT COURT MARTIAL,

When duly authorized to be investigated by such a 142nd Article
 tribunal, under the 128th Article of War. of War.
 Solitary Confinement; or, 128th Article
 Imprisonment with or without hard labour, as above. of War.
Vide pages 11, 19, 20.

LEAVING HIS POST BEFORE BEING
 REGULARLY RELIEVED.*

As above.

* The infliction of Corporal Punishment for these offences not sanctioned by the Queen's Regulations, page 226, Art. 30.

No. 14.

DESERTION, MAKING AWAY WITH NECESSARIES, AND FRAUDULENT ENLISTMENT.

(Referred to in page 57.)

CHARGE.

15th Clause,
Mutiny Act.
46th Article of
War.

1st. For having deserted from the _____ Regiment at _____, on or about the _____, and for not having returned until brought back under escort to _____, on or about the _____.

N. B.—If the Prisoner made away with any of his' regimental clothing, appointments, or necessities, it should form the subject of a second charge, viz.,—

2nd. For having at or about the period of his desertion, as stated in the first charge, made away with, or lost through neglect, the following articles of his regimental clothing, appointments, and necessities :—

[Here specify the different articles of which the Prisoner shall be found deficient.]

3rd. For having, whilst in a state of Desertion from the _____, as stated in the first charge, enlisted into the _____, on or about the _____, under the name of _____; and for having, by such enlistment, fraudulently obtained a second bounty, amounting to the sum of _____, or thereabouts, and also a free kit.

* The Prisoner's rank at the period of his desertion to be invariably inserted in the charge, as well as his Regimental Number.

No. 14.

DESERTION, MAKING AWAY WITH NECESSARIES, AND FRAUDULENT ENLISTMENT.

(Referred to in page 57.)

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Death; or,

Penal Servitude for any term not less than ⁵4 years; or,
 Corporal Punishment, not exceeding 50 lashes; or,
 Solitary Confinement, not exceeding 14 days; or,
 Imprisonment, with or without hard labour; and,

15th and 16th
 Clauses, Mu-
 tiny Act.
 46th Article of
 War.
 27th Clause,
 Mutiny Act.

At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such imprisonment, not exceeding 14 days at a time, nor 84 days in any one year, with intervals between the periods of Solitary Confinement of not less duration than such periods; marking with the letter D,* and stoppages (if convicted of making away with his necessities); also to the forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on discharge, which might accrue from *future* service.

132nd, 133rd
 134th Articles
 of War.

BY DISTRICT COURT MARTIAL.

Solitary Confinement; or,

Imprisonment, with or without hard labour, as above, *vide* pages 11, 19, 20; marking with the letter D, and stoppages. The forfeiture of all advantage as to additional Pay, good conduct Pay, and Pension on Discharge, which might otherwise have accrued to the offender from the length of his *former* service, follows as a matter of course, and should not therefore form part of the sentence of the Court. The offender is, however, liable to be restored to the whole, or any part of his service, on subsequent good or gallant conduct.—*52nd Article of War, and Queen's Regulations and Orders of the Army*, page 173.

128th Article
 of War.

52nd Article of
 War.

* Whenever the Court abstains from sentencing the offender to be marked with the letter D, the reasons which have led them to omit this are to be stated by the President in a separate letter, appended to the proceedings. *Queen's Regulations*, page 223, para. 16.

No. 15.

ADVISING OR PERSUADING OTHERS TO
DESERT.*(Referred to in page 57.)*

CHARGE.

48th Article of
War.

For having at _____, on or about the _____
[or between the _____ and _____], advised
[or persuaded, *as the case may be*] Private _____, of
the _____ Regiment, to desert from her Majesty's
Service, by having in conversation with the said
Private said to him—[*here state the acts done, or the words
used by way of advice or persuasion*].

No. 15.

ADVISING OR PERSUADING OTHERS TO
DESERT.**(Referred to in page 57.)*

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or,
 Imprisonment, with or without hard labour; and,
 At the discretion of the Court, to be kept in *Solitary*
Confinement for any portion or portions of such Impri-
 sonment, not exceeding 14 days at a time, nor 84 days
 in any one year, with intervals between the periods
 of Solitary Confinement of not less duration than such
 periods; also the forfeiture of all advantage as to ad-
 ditional Pay (if in actual receipt of any), good conduct
 Pay, and Pension on Discharge, which might have
 otherwise accrued from the length of his former ser-
 vice; or to forfeiture of such advantage absolutely,
 whether it might have accrued from past service, or
 might accrue from future service, according to the
 nature of the case.

48th Article of
 War.
 27th Clause,
 Mutiny Act.
 132nd, 133rd,
 134th Articles
 of War.

BY DISTRICT COURT MARTIAL.

Solitary Confinement; or,
 Imprisonment, with or without hard labour, as above.
Vide pages 11, 19, 20.

128th Article
 of War.

BY REGIMENTAL COURT MARTIAL,

Under the authority of the Major-General commanding
 the District.

Solitary Confinement, not exceeding 14 days; or,
 Imprisonment, with or without hard labour, not ex-
 ceeding 42 days; or,
 If the Court shall think fit, the offender to be kept
 in Solitary Confinement for a portion or portions of such
 imprisonment, not exceeding 14 days at a time, with an
 interval between them of not less duration than such
 period of Solitary Confinement.

142nd Article
 of War.
 131st Article
 of War.

* The infliction of Corporal Punishment for this offence not sanc-
 tioned by the Queen's Regulations, page 226, Art. 30.

No. 16.

FRAUDULENT CONFESSION OF DESERTION
BY A SOLDIER WHILE SERVING.*(Referred to in page 57.)*

CHARGE.

50th Article
of War.

For having at _____, on or about the _____, while serving in Her Majesty's Forces [*or as the case may be*] as a Private in the _____ Regiment of _____, fraudulently confessed himself to Sergeant _____, of the said Regiment, to be a Deserter, by falsely stating and pretending to the said Sergeant [*here state what was said to the Non-Commissioned Officer, and which is considered to be the confession of desertion*].

No. 16.

FRAUDULENT CONFESSION OF DESERTION
BY A SOLDIER WHILE SERVING.*

(Referred to in page 57.)

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or,
Imprisonment, with or without hard labour; and,

At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such Imprisonment, not exceeding 14 days at a time, nor 84 days in any one year, with intervals between the periods of Solitary Confinement of not less duration than such periods; also the forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service, or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case.

50th Article of War.
27th Clause, Mutiny Act.

132nd, 133rd,
134th Articles of War.

BY DISTRICT COURT MARTIAL.

Solitary Confinement; or,
Imprisonment, with or without hard labour, as above.

Vide pages 11, 19, 20.

128th Article of War.

BY REGIMENTAL COURT MARTIAL,

Under the authority of the Major-General commanding the District.

Solitary Confinement, not exceeding 14 days; or,
Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for a portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

142nd Article of War.

132nd Article of War.

* The infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226, Art. 30.

No. 17.

BREAKING ARREST, OR ESCAPING FROM
CONFINEMENT.*(Referred to in page 57.)*

CHARGE.

73rd Article
of War.

For having at _____, on or about the _____
day of _____, whilst under Arrest, [*or, as the case
may be*] in confinement in the _____ [*here specify
the place in which he was confined*], escaped * from such
confinement before he was set at liberty by lawful
authority.

* Broken his Arrest, *in the case of a Sergeant.*

No. 17.

BREAKING ARREST, OR ESCAPING FROM
CONFINEMENT.**(Referred to in page 57.)*

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

[If a Non-Commissioned Officer, Reduction to the Ranks ;]

Solitary Confinement, not exceeding 14 days ; or,
Imprisonment, with or without hard labour ; and,

73rd Article
of War.
27th Clause,
Mutiny Act.

At the discretion of the Court to be kept in *Solitary Confinement* for any portion or portions of such imprisonment, not exceeding 14 days at a time, nor 84 days in any one year, with intervals between the periods of Solitary Confinement of not less duration than such periods ; also the forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might otherwise have accrued from the length of his former service ; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case.

132nd, 133rd,
134th Articles
of War.

BY DISTRICT COURT MARTIAL.

[If a Non-Commissioned Officer, reduction to the Ranks ;]

Solitary Confinement ; or,

Imprisonment, with or without hard labour, as above.

Vide pages 11, 19, 20.

128th Article
of War.

BY REGIMENTAL COURT MARTIAL,

When duly authorized to be investigated by such a tribunal under the 142nd Article of War.

142nd Article
of War.

[If a Non-Commissioned Officer, reduction to the Ranks ;]

Solitary Confinement, not exceeding 14 days ; or,

Imprisonment, with or without hard labour, not exceeding 42 days ; or,

131st Article
of War.

If the Court shall think fit, the offender to be kept in Solitary Confinement for a portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

* The infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226, Art. 30.

No. 18.

REFUSING ASSISTANCE TO A MAGISTRATE IN
THE APPREHENSION OF MILITARY PERSONS
ACCUSED OF CIVIL CRIMES.

(Referred to in page 57.)

CHARGE.

100th Article
of War.

For having at _____, on or about the _____, wilfully and unlawfully refused to deliver over to _____, Civil Magistrate, or [*as the case may be*] to assist in the apprehension of _____, of the _____ Regiment, accused of a crime punishable by law.

[The Charge should in every instance be specific, and adapted to the particular circumstances of the case.]

No. 18.

REFUSING ASSISTANCE TO A MAGISTRATE
IN THE APPREHENSION OF MILITARY
PERSONS ACCUSED OF CIVIL CRIMES.**(Referred to in page 57.)*

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days ; or, 100th Article
Imprisonment with or without hard labour ; and, of War.

At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such imprisonment, not exceeding 14 days at a time, nor 84 days in any one year, with intervals between the periods of Solitary Confinement of not less duration than such periods ; also the forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service, or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case. 132nd, 133rd, 134th Articles of War. 27th Clause, Mutiny Act.

BY DISTRICT COURT MARTIAL.

Solitary Confinement ; or, 128th Article
Imprisonment, with or without hard labour, as above. of War.
Vide pages 11, 19, 20.

BY REGIMENTAL COURT MARTIAL,

Under the authority of the Major-General commanding the District.

Solitary Confinement, not exceeding 14 days ; or, 142nd Article
Imprisonment, with or without hard labour, not exceeding 42 days ; or, of War.

If the Court shall think fit, the offender to be kept in Solitary Confinement for a portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement. 131st Article of War.

* The infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226, Art. 30.

No. 19.

LEAVING A GUARD OR PICQUET.

(Referred to in page 57.)

CHARGE.

69th Article
of War.

For having, on or about the _____, left his Guard [*or* Picquet, *or* Post, *as the case may be*] at _____, without having first obtained leave from the Officer, or Non-Commissioned Officer, in command of the said Guard [*or* Picquet *or* Post], and for not having returned until _____

[If the offender should not return to his Guard or Picquet before it is relieved, the latter part of the charge to be worded accordingly.]

No. 19.

LEAVING GUARD OR PICQUET.*

(Referred to in page 57.)

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or,
 Imprisonment, with or without hard labour; and,
 At the discretion of the Court, to be kept in *Solitary*
Confinement for any portion or portions of such imprisonment,
 not exceeding 14 days, at a time, nor 84 days
 in any one year, with intervals between the periods
 of Solitary Confinement of not less duration than such
 periods; also, the forfeiture of all advantage as to ad-
 ditional Pay (if in actual receipt of any), good conduct
 Pay, and Pension on Discharge, which might have
 otherwise accrued from the length of his former ser-
 vice; or to the forfeiture of such advantage absolutely,
 whether it might have accrued from past service, or
 might accrue from future service, according to the nature
 of the case.

70th Article of
 War.
 27th Clause,
 Mutiny Act.

132nd, 133rd,
 134th, Articles
 of War.

BY DISTRICT COURT MARTIAL.

Solitary Confinement;
 Imprisonment, with or without hard labour, as above.
Vide pages 11, 19, 20.

128th Article
 of War.

BY REGIMENTAL COURT MARTIAL,

When duly authorized to be investigated by such a
 tribunal, under the 142nd Article of War.

Solitary Confinement, not exceeding 14 days; or,
 Imprisonment, with or without hard labour, not ex-
 ceeding 42 days; or,

142nd Article
 of War.
 131st Article
 of War.

If the Court shall think fit, the offender to be kept in
 Solitary Confinement for a portion or portions of such
 imprisonment, not exceeding 14 days at a time, with an
 interval between them of not less duration than such
 period of Solitary Confinement.

* The infliction of Corporal Punishment for this offence not sanc-
 tioned by the Queen's Regulations, page 226, Art. 30.

No. 20.

DISGRACEFUL CONDUCT.

(Referred to in page 57.)

CHARGE.

WILFULLY MAIMING OR MUTILATING.

85th Article of
War.

For disgraceful conduct, in having at _____, on or about the _____, wilfully maimed [*or injured*] himself, by discharging a loaded musket through his wrist [*or inflicting a wound with _____, as the case may be*], with intent thereby to render himself unfit for Her Majesty's Service.

OR

MAIMING OR INJURING ANOTHER SOLDIER.

85th Article of
War.

For disgraceful conduct, in having at _____, on or about the _____, at the instance of Private _____, of the _____ Regiment,* wilfully maimed [*or injured*] the said Private _____, by discharging a loaded musket through the wrist of him, the said Private _____ [*or inflicting a wound with _____, as the case may be*], with intent thereby to render him, the said Private _____, unfit for Her Majesty's Service.

* If the injury was not inflicted at the instance of the other Soldier, these words should be omitted.

No. 20.

DISGRACEFUL CONDUCT.

(Referred to in page 57.)

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days ; or,	85th Article of War.
Corporal Punishment, not exceeding 50 lashes ; or,	22nd, 23rd,
Imprisonment, with or without hard labour ; or,	24th, and 27th
Corporal Punishment and Imprisonment combined ;	Clauses,
and,	Mutiny Act.

At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such imprisonment, not exceeding 14 days at a time, nor 84 days in any one year, with intervals between the periods of Solitary Confinement of not less duration than such periods ; in addition to which the Court may award the forfeiture of all advantage as to additional Pay (if in actual receipt of any), good Conduct Pay, and to Pension on Discharge, which might have otherwise accrued from the length of his former service ; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case.

[If the offender should be adjudged the forfeiture of all claim to additional Pay, or good Conduct Pay and Pension, the Court may further recommend the Prisoner's discharge from the service with ignominy.]

BY DISTRICT COURT MARTIAL.

As above. *Vide* pages 11, 19, 20.

132nd, 133rd,
134th Articles
of War.
128th Article
of War.

No. 20—in continuation.

DISGRACEFUL CONDUCT.

CHARGE.

TAMPERING WITH EYES.

85th Article of War. For disgraceful conduct, in having at _____, on or about the _____ tampered with his eyes, by [*describe the nature of the act supposed to have been done by the Prisoner*], with intent, thereby, to render himself unfit for service.

MALINGERING AND FEIGNING DISEASE.

85th Article of War. For disgraceful conduct at _____, on or about the _____, in malingering, feigning [*or producing Disease or Infirmary, or wilfully doing any act, or wilfully disobeying any orders, thereby producing or aggravating Disease or Infirmary, or delaying his cure, as the case may be*].

[In each case the acts done or omitted to be done, from whence the Court is to draw the inference that he malingered, &c., &c., should be specified.]

No. 20—*In continuation.*

DISGRACEFUL CONDUCT.

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or,	85th Article of War.
Corporal Punishment, not exceeding 50 lashes; or,	22nd, 23rd,
Imprisonment, with or without hard labour; or,	24th, and 27th
Corporal Punishment and Imprisonment combined;	Clauses, Mu-
and,	tiny Act.

At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such imprisonment not exceeding 14 days at a time, nor 84 days in any one year, with intervals between the periods of Solitary Confinement of not less duration than such periods; in addition to which the Court may award the forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and to Pension on Discharge, which might have otherwise accrued from the length of his former service, or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case.

[If the offender should be adjudged the forfeiture of all claim to additional pay, or good conduct pay and pension, the Court may further recommend the Prisoner's discharge from the service with ignominy.]

BY DISTRICT COURT MARTIAL.

As above. *Vide* pages 11, 19, 20.

132nd, 133rd,
134th Articles
of War.
121st Article
of War.

No. 20.—*In continuation.*

DISGRACEFUL CONDUCT.

CHARGE.

EMBEZZLING, OR FRAUDULENTLY MISAPPLYING PUBLIC
MONEY.

85th Article of
War.

For disgraceful conduct in having at _____,
on or about the _____ day of _____,
embezzled or fraudulently misapplied the sum of _____
[*here specify the amount*], being public money intrusted
to him by _____ for the purpose of _____
[*here state the facts fully*].

No. 20—*In continuation.*

DISGRACEFUL CONDUCT.

PENALTY IN CASE OF CONVICTION

BY DISTRICT COURT MARTIAL.

Penal Servitude for any term of years, not less than 4; or,

Corporal Punishment, not exceeding 50 lashes; or,

Solitary Confinement, not exceeding 14 days; or,

Imprisonment, with or without hard labour; or,

Corporal Punishment and Imprisonment combined; and,

At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such imprisonment, not exceeding 14 days at a time, nor 84 days in any one year, with intervals between the periods of Solitary Confinement of not less duration than such periods; in addition to which the Court may award the forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and to Pension on Discharge, which might have otherwise accrued from the length of his former service; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case; and further, to be put under stoppages.

85th Article of War.
22nd, 23rd,
24th, and 27th
Clauses, Mu-
tiny Act.

132nd Article
of War.

[If the offender should be adjudged the forfeiture of all claim to additional pay, or good conduct pay, and pension, the Court may further recommend the Prisoner's discharge from the service with ignominy.]

BY DISTRICT COURT MARTIAL.

As above, with the exception of "Penal Servitude."
Vide pages 11, 19, 20.

132nd, 133rd,
134th Articles
of War.
128th Article
of War.

No. 20—*In continuation.*

DISGRACEFUL CONDUCT.

CHARGE.

STEALING FROM A COMRADE OR MILITARY OFFICER, OR FROM
ANY MILITARY OR REGIMENTAL MESS, ETC.

85th Article of War. For disgraceful conduct, in having at _____, on
or about the _____, stolen _____.

[Here specify the precise nature and extent of the theft, and whether the property belonged to an Officer or Soldier, or to any military or regimental mess, or band.]

OR,

85th Article of War. For disgraceful conduct, in having at _____, on
or about the _____, received the following articles
feloniously, knowing the same to have been stolen, viz.

[Here describe the articles.]

PURLOINING OR SELLING GOVERNMENT STORES.

85th Article of War. For disgraceful conduct, in having at _____,
between the _____ and _____, purloined
[or sold] the following Property or Stores, belonging to
the Government [or receiving the same feloniously,
knowing the same to have been stolen, *as the case
may be*].

[Here specify the different articles purloined or sold.]

[N.B.—In all cases where articles or money have been stolen, it is not sufficient to state the *general* amount or value of the articles or money taken: the value of each article should be specified; and the money actually taken, whether it consists of notes, or gold, or silver, or copper coin, should be described according as the fact may be.]

No. 20—*In continuation.*

DISGRACEFUL CONDUCT.

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Corporal Punishment, not exceeding 50 lashes; or,	85th Article of War.
Imprisonment, with or without hard labour; or,	22nd, 23rd,
Solitary Confinement, not exceeding 14 days; or,	24th and 27th
Corporal Punishment and Imprisonment combined;	Clauses, Mu-
and,	tiny Act.

At the discretion of the Court to be kept in *Solitary Confinement* for any portion or portions of such imprisonment, not exceeding 14 days at a time, nor 84 days in any one year, with intervals between the periods of Solitary Confinement of not less duration than such periods; also the forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and to Pension on discharge, which might have otherwise accrued from the length of his former service; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case; and, further, to be put under stoppages.

132nd Article of War.

[If the offender should be adjudged the forfeiture of all claim to additional pay, or good conduct pay, and pension, the Court may further recommend the Prisoner's discharge from the service with ignominy.]

BY DISTRICT COURT MARTIAL.

As above. *Vide* pages 11, 19, 20.

132nd, 133rd, and 134th Articles of War.
128th Article of War.

No. 20.—*In continuation.*

DISGRACEFUL CONDUCT.

CHARGE.

PRODUCING FALSE OR FRAUDULENT ACCOUNTS OR RETURNS.

92nd Article of War. For disgraceful conduct, in having on or about the _____ day of _____, at _____, in his capacity of Sergeant Major, [Quarter-Master Sergeant, Pay Sergeant, Sergeant, or Corporal, *as the case may be*], produced to the Paymaster [Adjutant, or other *Officer*, *as the case may be*] certain false certificates [*or* vouchers or accounts], as follows :—

[Here specify the particular nature and description of the certificates, or Vouchers, or Accounts produced.]

No. 20—*In continuation.*

DISGRACEFUL CONDUCT.

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Corporal Punishment, not exceeding 50 lashes ; or,	92nd Article
Solitary Confinement, not exceeding 14 days ; or,	of War.
Imprisonment, with or without hard labour ; or,	22nd, 23rd,
Corporal Punishment and Imprisonment combined ;	24th, and 27th
and,	Clauses, Mu-
	tiny Act.

At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such imprisonment, not exceeding 14 days at a time, nor 84 days in any one year, with intervals between the periods of Solitary Confinement of not less duration than such periods ; and, further, the forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service ; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case.

[If the offender should be adjudged the forfeiture of all claim to additional pay, or good conduct pay, and Pension, the Court may further recommend the Prisoner's discharge from the service with ignominy.]

BY DISTRICT COURT MARTIAL.

As above. *Vide* pages 11, 19, 20.

132nd, 133rd,
134th Articles
of War.
128th Article
of War.

No. 20—*In continuation.*

DISGRACEFUL CONDUCT.

CHARGE.

MAKING AWAY WITH SMART MONEY.

85th Article
of War.

For disgraceful conduct, in having at _____ ,
on or about the _____, fraudulently embezzled the
sum of _____, received by him from _____, as
smart money for the discharge of Recruit _____.

No. 20—*In continuation.*

DISGRACEFUL CONDUCT.

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Corporal Punishment, not exceeding 50 lashes; or,	85th Article
Solitary Confinement, not exceeding 14 days; or,	of War.
Imprisonment, with or without hard labour; or,	22nd, 23rd,
Corporal Punishment and Imprisonment combined;	24th, and 27th
and,	Clauses, Mu-
	tiny Act.

At the discretion of the Court, to be kept in *Solitary Confinement*, for any portion or portions of such imprisonment, not exceeding 14 days at a time, nor 84 days in any one year, with intervals between the periods of Solitary Confinement of not less duration than such periods; and also to be put under stoppages; in addition to which the Court may award the forfeiture of all advantage as to additional Pay (if in actual receipt of any), good Conduct Pay, and to Pension on Discharge, which might have otherwise accrued from the length of his former service, or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case.

[If the offender should be adjudged the forfeiture of all claim to additional pay, or good conduct pay, and pension, the Court may further recommend the Prisoner's discharge from the service with ignominy.]

BY DISTRICT COURT MARTIAL.

As above. *Vide* pages 11, 19, 20.

132nd, 133rd,
and 134th Ar-
ticles of War.
128th Article
of War.

No. 20—*In continuation.*

DISGRACEFUL CONDUCT.

CHARGE.

COMMITTING ANY PETTY OFFENCE OF A FELONIOUS OR
FRAUDULENT NATURE UPON A CIVILIAN.

85th Article
of War.

For disgraceful conduct, in having at _____, on
or about the _____, fraudulently obtained from
_____, a civilian, the sum of _____, [*or goods, as
the case may be*], amounting to _____, by _____
[*here state the nature of the trick or pretence by means of
which the money or goods was or were obtained*].

No. 20—*In continuation.*

DISGRACEFUL CONDUCT.

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Corporal Punishment, not exceeding 50 lashes; or,	85th Article
Solitary Confinement, not exceeding 14 days; or,	of War.
Imprisonment, with or without hard labour; or,	22nd, 23rd,
Corporal Punishment and Imprisonment combined;	24th, and 27th
and,	Clauses, Mu-
	tiny Act.

At the discretion of the Court, to be kept in *Solitary Confinement*, for any portion or portions of such imprisonment, not exceeding 14 days at a time, nor 84 days in any one year, with intervals between the periods of Solitary Confinement of not less duration than such periods; in addition to which the Court may award the forfeiture of all advantage as to additional Pay (if in actual receipt of any), good Conduct Pay, and to Pension on Discharge, which might have otherwise accrued from the length of his former service; or to forfeiture of all such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case; also to be put under stoppages.

132nd Article
of War.

[If the offender should be adjudged the forfeiture of all claim to additional pay and pension, the Court may further recommend the Prisoner's discharge from the service with ignominy.]

BY DISTRICT COURT MARTIAL.

As above. *Vide* pages 11, 19, 20.

132nd, 133rd,
134th Articles
of War.
128th Article
of War.

No. 21.

MAIMING OR MUTILATING.*

(Referred to in page 57.)

CHARGE.

85th Article
of War.

For having at _____, on or about the _____, when at the riding school, [*or at ball, field day, &c., as the case may be*] become maimed or mutilated by _____.

[The nature and extent of the injury sustained to be distinctly expressed.]

* It is directed by the 86th Article of War, that "any Soldier, whether on or off duty, who shall become maimed or mutilated, or injured, except by wounds received in Action, shall be forthwith brought before a *Court of Inquiry*; and such Court shall report their opinion whether such maiming or mutilating or injuring was occasioned by design; and if the Court shall report that the maiming or mutilating or injuring was not occasioned by design, the Soldier shall not be liable to be called to account in respect thereof. But if the Court shall report their opinion that such maiming or mutilating was occasioned by the design and wilful act of such Soldier, or by any other person at the instigation of such Soldier with intent on the part of such Soldier to render himself unfit for the service, and not by accident, in that case the Soldier shall be forthwith put upon his trial before a General, District, or Garrison Court Martial on a charge for Disgraceful Conduct, &c., &c."

No. 21.

MAIMING OR MUTILATING.*

(Referred to in page 57.)

If the Court shall be of opinion that the maiming or mutilating was occasioned by accident, and not by design, it will *acquit* the soldier. But if the Court shall declare by its finding that such maiming or mutilating was occasioned by the *designed* and *wilful act* of the soldier, *with intent to render himself unfit for the Service*, and not by accident, the punishment attaching to the offence will be that prescribed for “Disgraceful Conduct,” as laid down in the preceding pages.

86th Article
of War.

* *Vide* note at page 168.

No. 22.

DRUNK ON DUTY UNDER ARMS.

(Referred to in page 76.)

CHARGE.

80th Article
of War.

For having been drunk when on duty under arms, on the _____ guard,* at _____ [*or on picquet, or when employed as mounted orderly, or on escort duty, as the case may be*], on or about the _____ day of _____.

* The *nature* of the guard should always be stated; and if the Prisoner was on *sentry* at the time, the particular post should be inserted in the charge.

No. 22.

DRUNK ON DUTY UNDER ARMS.

(Referred to in page 76.)

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Corporal Punishment, not exceeding 50 lashes; or,
 Solitary Confinement, not exceeding 14 days; or,
 Imprisonment, with or without hard labour; or,
 Corporal Punishment and Imprisonment combined; or,
 At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such imprisonment, not exceeding 14 days at a time, nor 84 days in any one year, with intervals between the periods of Solitary Confinement of not less duration than such periods; also the forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case; likewise the deprivation of a penny a day of his pay for any period not exceeding 30 days.

80th Article
 of War.
 22nd, 23rd,
 24th, and 27th
 Clauses, Mu-
 tiny Act.

80th Article
 of War.

BY DISTRICT COURT MARTIAL.

Corporal Punishment; or,
 Solitary Confinement or Imprisonment, as above.
Vide pages 11, 19, 20.

Also the deprivation of a penny a day of his pay, for any period not exceeding 30 days.

128th Article
 of War.

BY REGIMENTAL COURT MARTIAL.

Corporal Punishment, not exceeding 50 lashes; or,
 Solitary Confinement, not exceeding 14 days; or,
 Imprisonment with or without hard labour, not exceeding 42 days; or,

131st Article
 of War.

If the Court shall think fit, the offender to be kept in Solitary Confinement for a portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such periods of Solitary Confinement; also,

To be deprived of a penny a day of his pay for any period not exceeding 30 days.

No. 23.

HABITUAL DRUNKENNESS.*

(Referred to in pages 37 and 75.)

CHARGES.

For Habitual Drunkenness, in having been drunk on duty under Arms [*or as the case may be*] at Winchester, on or about the 10th day of December, 1850; this being the fourth time [*or as the case may be*] of his having been drunk within three hundred and sixty-five days, the other instances being as follows, viz:—

On the 24th January, 1850, drunk at Tattoo, in Liverpool.

„ 30th March, „ drunk in barracks, at Weedon.

„ 1st October, „ drunk in the streets at Winchester.

OR

For Habitual Drunkenness, in having been drunk in barracks [*or as the case may be*] at Winchester, on or about the 15th day of May, 1851; this being the second time of his having been drunk since the 12th of December, 1850, on which day he was duly convicted of Habitual Drunkenness; the other instance having occurred on the 17th of March, 1851, when he was drunk in the streets [*or as the case may be*] at Winchester.

OR

For Habitual Drunkenness, in having been drunk on the line of March from Andover to Winchester, on or about the 10th day of December, 1850 [*or on or for duty or parade as the case may be*], and on parade, at Weedon [*or on or for duty, or on the line of March as the case may be*], on or about the 16th of March, 1850; thus being once drunk on parade, and once on the line of march, within three hundred and sixty-five days.

OR

For Habitual Drunkenness, in having been drunk on duty under Arms, at Winchester, on or about the 15th day of May, 1851 [*or on or for parade, or on the line of March, as the case may be*], within one hundred and sixty-eight days of the 12th day of December, 1850, on which day he was duly convicted of Habitual Drunkenness.

* If the offender shall have been drunk more than the precise number of times necessary to constitute "Habitual Drunkenness," the whole number of instances should be specified in the charge, as already suggested in page 42.

In case the last or *immediate* instance of Drunkenness was attended by any act of violence, insubordination, or other military offence, the same will, of course, be made the subject of a *distinct* and separate charge.

No. 23.

HABITUAL DRUNKENNESS.

(Referred to in pages 41 and 75.)

PENALTY IN CASE OF CONVICTION

BY DISTRICT COURT MARTIAL.

Forfeiture of *one* penny a day of his pay, for any period 82nd Article
not *less* than 168 days, and not *exceeding* 672 days. of War.
Also, if the Court shall think fit,

Solitary Confinement, not exceeding 14 days; or,
Imprisonment, with or without hard labour; and,

At the discretion of the Court, to be kept in *Solitary* 128th Article
Confinement for any portion or portions of such imprison- of War.
ment, not exceeding 14 days at a time, nor 84 days
in any one year, with intervals between the periods
of Solitary Confinement of not less duration than such
periods (*vide* pages 11, 19, 20); and, further, if the *im-*
mediate act of Drunkenness was attended with *insubor-*
dination, or committed *when upon duty*, and that the
Prisoner was so charged (but not otherwise), the Court
may adjudge Corporal Punishment not exceeding 50
lashes.

BY REGIMENTAL COURT MARTIAL.

Forfeiture of one penny a day of his pay for any period 82nd Article
not exceeding six months; also, if the Court shall see of War.
fit,

Solitary Confinement, not exceeding 14 days; or,

Imprisonment, with or without hard labour, not ex- 131st Article
ceeding 42 days; or, of War.

At the discretion of the Court, the offender to be kept
in Solitary Confinement for any portion or portions of
such imprisonment, not exceeding 14 days at a time, with
an interval between them of not less duration than such
period of Solitary Confinement.

No. 24.

INSUBORDINATE AND OUTRAGEOUS CONDUCT
TOWARDS A SUPERIOR.*(Referred to in page 58.)*

CHARGE.

108th Article
of War.

For conduct to the prejudice of good order and Military discipline, in having at _____, on or about the _____ of _____, used abusive and threatening language towards _____, his Superior Officer, and declared [if ever he had an opportunity, that "he would take away his life," *or words to that effect*].*

OR,

108th Article
of War.

For conduct to the prejudice of good order and Military discipline, in having at _____, on or about _____, threatened to shoot [*or to stab, as the case may be*] _____, his Superior Officer; he, the Prisoner, having his musket loaded with powder and ball at the time [*or his drawn bayonet in his hand, as the case may be*].*

* In all cases of this nature, it is essential that the PRECISE language used should be specified in the charge, and if accompanied by gesture, the same should be accurately described.

No. 24.

INSUBORDINATE AND OUTRAGEOUS CONDUCT
TOWARDS A SUPERIOR.*(Referred to in page 58.)*

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Corporal Punishment, not exceeding 50 lashes ; or, 108th Article
 Solitary Confinement, not exceeding 14 days ; or, of War.
 Imprisonment, with or without hard labour ; or,
 Corporal Punishment and Imprisonment combined ;
 and,

If the Court shall deem fit, to be kept in *Solitary* 22nd, 23rd,
Confinement for any portion or portions of such Im- and 27th
 prisonment, not exceeding 14 days at a time, nor 84 Clauses, Mu-
 days in any one year, with intervals between the tiny Act.
 periods of Solitary Confinement of not less duration than
 such periods ; and also the forfeiture of all advantage as to
 additional Pay (if in actual receipt of any), good conduct
 Pay, and Pension on Discharge, which might have
 otherwise accrued from the length of his former service ;
 or to forfeiture of such advantage absolutely, whether
 it might have accrued from past service, or might accrue
 from future service, according to the nature of the case.

BY DISTRICT COURT MARTIAL.

Corporal Punishment ; or, 128th Article
 Solitary Confinement or Imprisonment, as above. of War.
Vide pages 11, 19, 20.

BY REGIMENTAL COURT MARTIAL

(On the Line of March).

Corporal Punishment, not exceeding 50 lashes ; or, 11th Clause,
 Solitary Confinement, not exceeding 14 days ; or, Mutiny Act.
 Imprisonment, with or without hard labour, not ex- 137th Article
 ceeding 42 days ; or, of War.

If the Court shall think fit, the offender to be kept 131st Article
 in Solitary Confinement for a portion or portions of such of War.
 Imprisonment, not exceeding 14 days at a time, with an
 interval between them of not less duration than such
 period of Solitary Confinement.

No. 25.

IRREGULAR CONDUCT ON ESCORT DUTY.

(Referred to in page 58.)

CHARGE.

108th Article
of War.

For conduct to the prejudice of good order and Military discipline, in having at _____ on or about _____, when on the march with a party in charge of Prisoners, proceeding to _____, conducted himself in an irregular and unsoldier-like manner, in going into a public house contrary to the order of [*here state the name of the Officer, or Non-Commissioned Officer, by whom the order was given*], and remaining there until he became drunk and unfit for duty.

No. 25.

IRREGULAR CONDUCT ON ESCORT DUTY.

(Referred to in page 58.)

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Corporal Punishment, not exceeding 50 lashes; or,	108th Article
Solitary Confinement, not exceeding 14 days; or,	of War.
Imprisonment, with or without hard labour; or,	22nd, 23rd, and
Corporal Punishment and Imprisonment combined;	27th Clauses,
and,	Mutiny Act.

If the Court shall deem fit, to be kept in *Solitary Confinement*, for any portion or portions of such imprisonment not exceeding 14 days at a time, nor 84 days in any one year, with intervals between the periods of Solitary Confinement of not less duration than such periods; and also the forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might otherwise have accrued from the length of his former service; or to forfeiture of such advantage absolutely, whether it might have accrued from past service or might accrue from future service, according to the nature of the case.

BY DISTRICT COURT MARTIAL.

Corporal Punishment; or,	128th Article
Solitary Confinement or Imprisonment, as above.	of War.
<i>Vide</i> pages 11, 19, 20.	

BY REGIMENTAL COURT MARTIAL,

Under the authority of the Major-General of the District.

Corporal Punishment, not exceeding 50 lashes; or,	108th Article
Solitary Confinement, not exceeding 14 days; or,	of War.
Imprisonment, with or without hard labour, not exceeding 42 days; or,	

If the Court shall think fit, the offender to be kept in Solitary Confinement for a portion or portions of such imprisonment not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 26.

OBSTRUCTING AND ASSAULTING THE POLICE
IN THE EXECUTION OF THEIR DUTY.

(Referred to in page 58.)

CHARGE.

108th Article
of War.

For conduct to the prejudice of good order and military discipline, in having at _____, on or about the _____ day of _____, aided and assisted [soldiers or civilians, *as the case may be*] in obstructing and assaulting Constables _____ and _____, in the execution of their duty. [*The particulars, in every case should be distinctly specified.*]*

* If the Prisoner actually joined the party, he should be charged with the actual assault and obstruction, whether he was guilty of any violence or not.

No. 26.

OBSTRUCTING AND ASSAULTING THE POLICE IN THE EXECUTION OF THEIR DUTY.*

(Referred to in page 58.)

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or,
Imprisonment, with or without hard labour; and,
At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such Imprisonment, not exceeding 14 days at a time, nor 84 days in any one year, with intervals between the periods of Solitary Confinement of not less duration than such periods; also the forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might otherwise have accrued from the length of his former service; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case.

108th Article
of War.
23rd and 27th
Clauses, Mu-
tiny Act.

BY DISTRICT COURT MARTIAL.

Solitary Confinement or Imprisonment, as above.
Vide pages 11, 19, 20.

BY REGIMENTAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or,
Imprisonment, with or without hard labour, not ex-
ceeding 42 days; or,

131st Article
of War.

If the Court shall think fit, the offender to be kept in Solitary Confinement for a portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

* The infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226.

No. 27.

FORCING OR STRIKING A SENTINEL.

(Referred to in page 59.)

CHARGE.

108th Article
of War.

For conduct to the prejudice of good order and military discipline, in having at _____, on or about the _____, wilfully struck Private _____, he being at the time sentry over* _____.

* Or, for having forced a sentry, *as the case may be.*

No. 27.

FORCING OR STRIKING A SENTINEL.

(Referred to in page 59.)

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Corporal Punishment, not exceeding 50 lashes; or,
 Solitary Confinement, not exceeding 14 days; or,
 Imprisonment with or without hard labour; or,
 Corporal Punishment and Imprisonment combined; or,

108th Article
 of War.
 22nd, 23rd,
 27th Clauses,
 Mutiny Act.

If the Court shall see fit, to be kept in *Solitary Confinement* for any portion or portions of such imprisonment, not exceeding 14 days at a time, nor 84 days in any one year, with intervals between the periods of Solitary Confinement of not less duration than such periods; and the forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might otherwise have accrued from the length of his former service; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case.

BY DISTRICT COURT MARTIAL.

Corporal Punishment; or,
 Solitary Confinement or Imprisonment, as above.
Vide pages 11, 19, 20.

128th Article
 of War.

BY REGIMENTAL COURT MARTIAL,

Under the authority of the Major-General of the District.

Corporal Punishment, not exceeding 50 lashes; or,
 Solitary Confinement, not exceeding 14 days; or,
 Imprisonment, with or without hard labour, not exceeding 42 days; or,

131st Article
 of War.

If the Court shall think fit, the offender to be kept in Solitary Confinement for a portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 28.

SOLDIERS PERMITTING A NON-COMMISSIONED OFFICER TO BE ASSAULTED BY CIVILIANS WITHOUT AFFORDING HIM ANY AID OR ASSISTANCE.

(Referred to in page 59.)

CHARGE.

108th Article
of War.

For conduct to the prejudice of good order and military discipline, in having at _____, on or about the _____ day of _____, wilfully refused or neglected to render assistance to Sergeant [*or* Corporal] of the _____ Regiment, who in their presence, and within reach of their assistance, was violently assaulted by a civilian or civilians.

No. 28.

SOLDIERS PERMITTING A NON-COMMISSIONED OFFICER TO BE ASSAULTED BY CIVILIANS, WITHOUT AFFORDING HIM ANY AID OR ASSISTANCE.*

(Referred to in page 59.)

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or, Imprisonment, with or without hard labour; and, If the Court shall deem fit, to be kept in *Solitary Confinement* for any portion or portions of such Imprisonment, not exceeding 14 days at a time, nor 84 days in any one year, with intervals between the periods of Solitary Confinement of not less duration than such periods; also the forfeiture of all advantage as to additional Pay (if in actual receipt of any), good Conduct Pay, and Pension on Discharge, which might otherwise have accrued from the length of his former service; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case.

108th Article
of War.
27th Clause,
Mutiny Act.

BY DISTRICT COURT MARTIAL.

Solitary Confinement or Imprisonment, as above.
Vide pages 11, 19, 20.

128th Article
of War.

BY REGIMENTAL COURT MARTIAL,

Under the authority of the Major-General of the District.

Solitary Confinement, not exceeding 14 days; or, Imprisonment, with or without hard labour, not exceeding 42 days; or,

131st Article
of War.

If the Court shall think fit, the offender to be kept in Solitary Confinement for a portion or portions of such imprisonment, not exceeding 14 days at a time, with intervals between them of not less duration than such period of Solitary Confinement.

* The infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226.

No. 29.

WRITING AN ANONYMOUS LETTER, IMPUTING IMPROPER CONDUCT TO A SUPERIOR.

(Referred to in page 59.)

CHARGE.

108th Article
of War.

For conduct to the prejudice of good order and military discipline, in having at _____, on or about the _____, written and sent to A. B., then and there being his Superior Officer, an Anonymous Letter, which letter contained the following passage* [*to be set out in words*], thereby falsely imputing to the said A. B. improper motives in the discharge of his duty.

* If no particular passage can be selected, the whole letter should be set out.

N. B.—Should the letter have been written and sent to any other than the prisoner's immediate Superior or Commanding Officer, some slight alteration in the wording of the charge, so as to meet the case, will, of course, become necessary.

No. 29.

WRITING AN ANONYMOUS LETTER, IMPUT-
ING IMPROPER CONDUCT TO A SUPERIOR.**(Referred to in page 59).*

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Solitary Confinement not exceeding 14 days; or,
Imprisonment with or without hard labour; and,

108th Article
of War.
27th Clause,
Mutiny Act.

At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such imprisonment, not exceeding 14 days at a time, nor 84 days in any one year, with intervals between the periods of Solitary Confinement of not less duration than such periods; and also the forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might otherwise have accrued from the length of his former service; or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case.

BY DISTRICT COURT MARTIAL.

Solitary Confinement or Imprisonment, as above. *Vide* 128th Article
pages 11, 19, 20. of War.

BY REGIMENTAL COURT MARTIAL,

Under the authority of the Major-General of the
District.

Solitary Confinement not exceeding 14 days; or,
Imprisonment, with or without hard labour, not ex-
ceeding 42 days; or,

131st Article
of War.

If the Court shall think fit, the offender to be kept in Solitary Confinement for a portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

* The infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226.

No 30.

A NON-COMMISSIONED OFFICER, COMMANDING A GUARD, PICQUET, OR PATROL, SUFFERING A PRISONER COMMITTED TO HIS CHARGE TO ESCAPE.*

(Referred to in page 76.)

77th Article
of War.

CHARGE.

For having, when in command of [*here state whether a Guard, Picquet, or Patrol*] at _____, on or about the _____, negligently [*or wilfully, as the case may be*] suffered† _____, a Prisoner committed to his charge, to escape.

PENALTY IN CASE OF CONVICTION

By Regimental Court Martial.

Reduction to the Ranks; and,

At the discretion of the Court, Solitary Confinement not exceeding 14 days; or,

Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the Offender to be kept in Solitary Confinement for any portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

* The infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226.

† Or, released him without proper authority, *as the case may be.*

No. 31.

NON-COMMISSIONED OFFICERS NEGLECTING
TO OBEY ANY GARRISON OR OTHER
ORDERS.**(Referred to in page 77.)*

CHARGE.

For having, when in command of the Barrack [*or other*] Guard at ———, on or about the ———, neglected to† ———, although it was his duty to have done so, agreeably to [the standing orders of the Garrison or Regiment, *as the case may be*].

PENALTY IN CASE OF CONVICTION

By Regimental Court Martial.

Reduction to the Ranks; 79th Article
and, of War.
131st Article
of War.

At the discretion of the Court, Solitary Confinement, not exceeding 14 days; or,

Imprisonment with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the Offender to be kept in Solitary Confinement for any portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

* The infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226.

† [Here specify the nature of the neglect.]

No. 32.

PRIVATE SOLDIERS NEGLECTING TO OBEY
ANY GARRISON OR OTHER ORDERS.**(Referred to in page 77.)*

79th Article of War. 131st Article of War.	CHARGE.	PENALTY IN CASE OF CONVICTION
	For having at ———, on or about the ———, entered a Public House kept by ———, thereby wilfully dis- obeying a Garrison [<i>or</i> Regimental Order <i>as the</i> <i>case may be</i>].	<p><i>By Regimental Court Martial.</i></p> <p>Solitary Confinement, not exceeding 14 days; or,</p> <p>Imprisonment, with or without hard labour, not exceeding 42 days; or,</p> <p>If the Court shall think fit, the Offender to be kept in Solitary Confinement for any portion or portions of such imprisonment, not ex- ceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.</p>

* The infliction of Corporal Punishment for this offence not sanc-
tioned by the Queen's Regulations, page 226.

No. 33.

DRUNK WHEN ON ANY DUTY UNDER ARMS,
OR WHEN ON ANY DUTY NOT UNDER ARMS,
OR FOR DUTY, OR ON PARADE, OR ON THE
LINE OF MARCH.

(Referred to in page 77.)

CHARGE.

For having on or about the _____, at _____, been drunk on duty under arms [*or on duty not under arms, as the case may be*], [*here state the precise nature of the duty on which the prisoner was employed*];

OR,

For having at _____, on or about the _____, been drunk when on parade [*state the particular parade*];

OR,

For having at _____, on or about the _____, been drunk on the Line of March* between _____ and _____.

PENALTY IN CASE OF CONVICTION

By Regimental Court Martial.

Solitary Confinement, not exceeding 14 days; or, 82nd Article of War.
Imprisonment, with or without hard labour, not exceeding 42 days; or, 131st Article of War.

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement. In addition, to be deprived of a penny a day of his pay for any period not exceeding 30 days.

* The words "*Line of March*" are to be understood in their literal and obvious sense; that is to say, as being applicable to the period alone during which the Soldier is actually on his day's march from one station or halting place to another, until he is relieved from further duty after the evening parade. For drunkenness on the "*Line of March*," the Court, *instead* of awarding Imprisonment, solitary or otherwise, may sentence the offender to Corporal Punishment, not exceeding 50 lashes.

No. 34.

ABSENCE WITHOUT LEAVE.*

(Referred to in page 77.)

54th Article
of War.
131st Article
of War.

CHARGE.

For having at _____, on or about the _____, without leave from his Commanding Officer, absented himself from the _____ Regiment [*or* Depot], and for not having returned until brought back under escort, on or about the _____

[If the Prisoner should return to the quarters of his Corps of his own accord, and surrender himself, the words "*brought back under escort*" will of course be omitted.

If the man's absence without leave exceed 21 days (reckoned from the period he absented himself to the date of his surrender or apprehension), a Regimental Court Martial is not competent to take cognizance of the offence; and the Prisoner's conduct must in that case be investigated by a General or District Court Martial on a distinct charge of "Desertion," *vide* pages 51 and 54].

PENALTY IN CASE OF CONVICTION

By Regimental Court Martial.

Solitary Confinement, not exceeding 14 days; or,

Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

In addition to any punishment awarded by the Court, the Offender forfeits, as a matter of course, his pay for the days on which he has absented himself without leave.—*Vide* 54th Article of War.

* The infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226.

No. 35.

ABSENCE FROM PARADE.*

(Referred to in page 77.)

CHARGE.

For having at ———, on or about the ———, failed to appear at ———, the place of parade appointed by his Commanding Officer, although duly warned to attend it.

PENALTY IN CASE OF CONVICTION

By Regimental Court Martial.

Solitary Confinement, not exceeding 14 days; or, 74th Article of War.
Imprisonment, with or 131st Article of War.

without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the Offender to be kept in Solitary Confinement for any portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

* The infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226.

No. 36.

LOSING BY NEGLECT, MAKING AWAY WITH,
SPOILING OR DAMAGING ARMS, CLOTHING,
INSTRUMENTS, EQUIPMENTS, ACCOUTRE-
MENTS, OR NECESSARIES.

(Referred to in page 77)

	CHARGE.	PENALTY IN CASE OF CONVICTION
106th and 132nd Articles of War. 131st Article of War.	For having at _____ on or about the _____ day of _____, [<i>or</i> between the _____ and _____], lost by neglect, designedly made away with, spoiled, or da- maged [<i>as the case may be</i>], the following articles :*—	<p><i>By Regimental Court Martial.</i></p> <p>Corporal Punishment, not exceeding 50 lashes; or, Solitary Confinement, not exceeding 14 days; or, Imprisonment, with or without hard labour, not exceeding 42 days; or,</p>
	[Here specify the different ar- ticles in detail, having reference always to the provisions of the 132nd Article of War, already adverted to in this book, page 11.]	<p>If the Court shall think fit, the Offender to be kept in Solitary Confinement for any portion or portions of such imprisonment, not ex- ceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement; and in ad- dition to be put under stop- pages.</p>

* The Court should endeavour to ascertain whether the articles were lost by accident or carelessness, or wilfully made away with. If they do not find that they were wilfully disposed of, their finding should be that they were lost by neglect.

No. 37.

DRAGOONS ILL-TREATING THEIR HORSES.*

(Referred to in page 76.)

CHARGE.

For having at _____, on
or about the _____, wil-
fully stabbed [*or as the case
may be*] his horse, troop
letter _____, No. _____,
by _____.

[Here specify the particulars of
the ill-treatment; and if the
horse shall have sustained any
damage, the amount of such
damage should be specified in the
charge.]

PENALTY IN CASE OF CONVICTION

By Regimental Court Martial.

Solitary Confinement, not exceeding 14 days; or, 132nd Article
of War.

Imprisonment, with or without hard labour, not exceeding 42 days; or, 131st Article
of War.

If the Court shall think fit, the Offender to be kept in Solitary Confinement for any portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

And in addition (should the horse have sustained any damage by the ill treatment), to be put under stoppages until the damage shall be made good.—132nd Article of War.

* The infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226.

No. 38.

A NON-COMMISSIONED OFFICER STRIKING OR ILL-TREATING A SOLDIER.*

(Referred to in page 76.)

	CHARGE.	PENALTY IN CASE OF CONVICTION
104th Article of War. <i>104</i> 131st Article of War.	For having at _____, on or about the _____, struck [<i>or</i> <i>as the case may be</i>] Private [<i>or</i> Drummer] _____, of the _____ Regiment; such conduct being unbecoming the character of a Non- Commissioned Officer, and contrary to the Articles of War.	<i>By Regimental Court Martial.</i> Reduction to the Ranks; and, At the discretion of the Court, Solitary Confinement, not exceeding 14 days; or, Imprisonment, with or without hard labour, not ex- ceeding 42 days; or, If the Court shall think fit, the Offender to be kept in Solitary Confinement for any portion or portions of such imprisonment, not ex- ceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.
	[The particular nature of the ill-usage should be stated.]	

* The Infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226.

No. 39.

A NON-COMMISSIONED OFFICER ALLOWING
A PRISONER IN HIS CHARGE TO
GET DRUNK.*

(Referred to in page 78.)

CHARGE.

For gross neglect of duty, in having at _____, on or about the _____, when Sergeant [*or* Corporal] of the _____ Guard, wilfully [*or* through neglect] allowed Private _____ to get drunk, he, the said Private _____, then and there being a Prisoner under his charge.

PENALTY IN CASE OF CONVICTION

By Regimental Court Martial.

Reduction to the rank and pay of a private soldier; and, at the discretion of the Court. 108th Article of War.
131st Article of War.

Solitary Confinement, not exceeding 14 days; or,

Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

* The infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226.

No. 40.

A SENTRY NEGLECTING HIS DUTY.*

(Referred to in page 78.)

CHARGE.

108th Article
of War.
131st Article
of War.

For neglect of duty, when on sentry at the regimental guard-room door at _____, on or about the _____ day of _____, 18 _____, in having wilfully [*or through neglect, as the case may be*] permitted A. B., then and there being a Prisoner in the guard-room, to quit the said guard-room, and thereby effect his escape from confinement.

PENALTY IN CASE OF CONVICTION

By Regimental Court Martial.

Solitary Confinement, not exceeding 14 days; or,

Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

* The infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226.

No. 41.

PERSUADING, OR ENDEAVOURING TO PERSUADE, A SENTRY TO DISOBEY THE ORDERS OF HIS POST.*

(Referred to in page 78.)

CHARGE.

For having at _____, on or about the _____, persuaded [*or endeavoured to persuade, as the case may be*] Private _____, he then and there being a sentry at his Post, to _____,† he, the Prisoner, well knowing at the time that the sentry's compliance would be in direct disobedience of the orders of his Post.

PENALTY IN CASE OF CONVICTION

By Regimental Court Martial.

[If a non-Commissioned Officer, reduction to the rank and pay of a private soldier, in addition to] 108th Article of War.
131st Article of War.

Solitary Confinement, not exceeding 14 days; or, Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

* The infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226.

† Here state the particular fact, adding what the Prisoner said to the sentry by way of persuasion.

No. 42.

A SENTRY DISOBEYING THE ORDERS OF HIS POST.*

(Referred to in page 78.)

	CHARGE.	PENALTY IN CASE OF CONVICTION
108th Article of War.	For having at _____, on or about the _____, when on sentry at No. _____ Post, wilfully [<i>or by neglect, as the case may be</i>], allowed _____, † the same being in direct disobedience of the orders of his Post, and subversive of military discipline.	<i>By Regimental Court Martial.</i>
131st Article of War.		Solitary Confinement, not exceeding 14 days; or,
		Imprisonment, with or without hard labour, not exceeding 42 days; or,
		If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

* The infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226.

† Here state the particular fact.

No. 43.

OFFERING A BRIBE TO A SENTRY.*

(Referred to in page 78.)

CHARGE.

For conduct to the prejudice of good order and Military discipline, in having at _____, on or about the _____, offered a bribe to Private _____, by [*here state what the Prisoner said or did*], to induce him, the said Private _____, to conceal from superior authority a circumstance which occurred when he was on sentry at _____, which circumstance he, the Prisoner, knew it was the duty of the said sentry duly to report.

PENALTY IN CASE OF CONVICTION

By Regimental Court Martial.

[If a Non-Commissioned Officer, reduction to the rank and pay of a private soldier, in addition to] 108th Article
of War.
131st Article
of War.

Solitary Confinement, not exceeding 14 days; or, Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

* The infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226.

No. 44.

A SENTRY RECEIVING A BRIBE.*

(Referred to in page 78.)

CHARGE.

108th Article
of War.
131st Article
of War.

For conduct to the prejudice of good order and Military discipline, in having at _____, on or about the _____, received from _____ a bribe,† *not* to make known a circumstance which occurred on his Post, when on sentry at _____, which circumstance it was his duty to report to superior authority.

PENALTY IN CASE OF CONVICTION

By Regimental Court Martial.

Solitary Confinement, not exceeding 14 days; or,

Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the Offender to be kept in Solitary Confinement for any portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

* The infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226.

† The particulars should be given in full, adding what was said to the Prisoner, or received by him.

No. 45.

A SENTRY DELIVERING OVER THE CHARGE
OF HIS POST TO ANOTHER SOLDIER, WITH-
OUT A NON-COMMISSIONED OFFICER BEING
PRESENT AT THE RELIEF.*

(Referred to in page 78.)

CHARGE.

For conduct to the pre-
judice of good order and
Military discipline, in hav-
ing at _____, on or about
the _____, when on sentry
at No. _____ Post, deli-
vered over his charge to
Private _____, one of the
guard, without a Non-Com-
missioned Officer being pre-
sent at the relief.

PENALTY IN CASE OF CONVICTION

By Regimental Court Martial.

Solitary Confinement, not
exceeding 14 days; or,

108th Article
of War.
131st Article
of War.

Imprisonment, with or
without hard labour, not
exceeding 42 days; or,

If the Court shall think
fit, the Offender to be kept
in Solitary Confinement for
any portion or portions of
such imprisonment, not ex-
ceeding 14 days at a time,
with an interval between
them of not less duration
than such period of Solitary
Confinement.

* This offence, when committed on any other than an ordinary Barrack Guard, is generally investigated by a District or Garrison Court Martial; but is not subject to Corporal Punishment, under the Queen's Regulations, page 226.

No. 46.

A SOLDIER RELIEVING ANOTHER ON SENTRY,
WITHOUT BEING REGULARLY POSTED BY
A NON-COMMISSIONED OFFICER OF THE
GUARD.*

(Referred to in page 78.)

CHARGE.

108th Article
of War.
131st Article
of War.

For conduct to the prejudice of good order and Military discipline, in having at _____, on or about the _____, when on guard, relieved Private _____, who was on sentry at _____, without being regularly posted at such relief by a Non-Commissioned Officer of the Guard.

PENALTY IN CASE OF CONVICTION

By Regimental Court Martial

Solitary Confinement, not exceeding 14 days; or,

Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

* This offence, when committed on any other than an ordinary Barrack Guard, is generally investigated by a District or Garrison Court Martial; but is not subject to Corporal Punishment, under the Queen's Regulations, page 226.

No. 47.

A CORPORAL OF A GUARD PERMITTING A SOLDIER TO RELIEVE ANOTHER ON SENTRY, WITHOUT HIS BEING PRESENT AT THE RELIEF.*

(Referred to in page 78.)

CHARGE.	PENALTY IN CASE OF CONVICTION
For conduct to the prejudice of good order and Military discipline, in having, when Corporal of the _____, Guard, at _____, on or about the _____, wilfully permitted Private _____, one of the Guard, to relieve Private _____, who was on sentry at No. _____ Post, without his (the Prisoner) being present at the relief.	<p><i>By Regimental Court Martial.</i></p> <p>Reduction to private; and, at the discretion of the Court,</p> <p>Solitary Confinement, not exceeding 14 days; or,</p> <p>Imprisonment, with or without hard labour, not exceeding 42 days; or,</p> <p>If the Court shall think fit, the offender to be kept in Solitary Confinement for any portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.</p>

* This offence, when committed on any other than an ordinary Barrack Guard, is generally investigated by a District or Garrison Court Martial; but is not subject to Corporal Punishment, under the Queen's Regulations, page 226.

No. 48.

ABSENCE WITHOUT LEAVE FROM TATTOO.*

(Referred to in page 78.)

CHARGE.

108th Article
of War.
131st Article
of War.

For having without leave from his Commanding Officer absented himself from tattoo at _____, on or about the night of _____, and for not having returned until the following morning.

PENALTY IN CASE OF CONVICTION

By Regimental Court Martial.

Solitary Confinement, not exceeding 14 days; or,

Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the Offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

* The infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226.

No. 49.

DRUNK AND RIOTOUS IN THE STREETS, OR
BARRACKS;

OR,

DRUNK AND RIOTOUS IN THE STREETS, AND
DRAWING HIS BAYONET.

(Referred to in page 78.)

CHARGE.

For having been drunk and riotous in the streets [or barracks, *as the case may be*] at _____, on or about the _____, and for resisting and offering violence to the Picquet ordered to take him into Confinement.

OR,

For having been drunk and riotous in the streets at _____, on or about the _____, and for having drawn or attempted to draw his bayonet upon _____.

PENALTY IN CASE OF CONVICTION

By Regimental Court Martial.

Corporal Punishment not exceeding 50 lashes; or, 108th Article of War.

Solitary Confinement, not exceeding 14 days; or, 131st Article of War.

Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the Offender to be kept in Solitary Confinement for any portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

As above.

In addition, to be degraded on the public parade, by being there stripped of his bayonet and bayonet belt, agreeably to the General Order from the Horse Guards, under date 18th June, 1835.—*Vide Appendix, No. 66.*

No. 50.

IMPROPER CONDUCT TO NON-COMMISSIONED OFFICERS.

(Referred to in page 79.)

	CHARGE.	PENALTY IN CASE OF CONVICTION
108th Article of War.	For conduct to the prejudice of good order and Military discipline in having, on the morning parade at _____, on or about the _____, made use of insolent and insubordinate language [<i>here state the precise language used</i>] towards Sergeant _____ on his (the Sergeant) pointing out to the Prisoner the slovenly state in which he had appeared on parade.	<i>By Regimental Court Martial.</i>
131st Article of War.		Corporal Punishment, not exceeding 50 lashes; or,
		Solitary Confinement, not exceeding 14 days; or,
		Imprisonment, with or without hard labour, not exceeding 42 days; or,
		If the Court shall think fit, the Offender to be kept in Solitary Confinement for any portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

No. 51.

FALSELY ACCUSING A NON-COMMISSIONED
OFFICER OF DRUNKENNESS.**(Referred to in page 79.)*

CHARGE.

For conduct to the prejudice of good order and Military discipline, in having at _____, on or about the _____, in a statement made to _____, falsely and maliciously said of Sergeant [or Corporal] _____ of the _____ Regiment, that he the said Sergeant [or Corporal] was drunk on the _____.

[The precise language used should be stated, adding, "or words to that effect."]

PENALTY IN CASE OF CONVICTION

By Regimental Court Martial.

Solitary Confinement, not exceeding 14 days; or, 108th Article
of War.

Imprisonment, with or without hard labour, not exceeding 42 days; or, 131st Article
of War.

If the Court shall think fit, the Offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

* The infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226.

No. 52.

BREAKING OUT OF BARRACKS AFTER HOURS.*

(Referred to in page 79.)

CHARGE.

108th Article
of War.
131st Article
of War.

For breaking out of, or quitting the barracks after hours, at _____, without leave from his commanding officer, on or about the —, and not returning until brought back by a party sent in search of him on the following morning.

PENALTY IN CASE OF CONVICTION

By Regimental Court Martial.

Solitary Confinement, not exceeding 14 days; or,

Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the Offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

* The infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226.

No. 53.

BREAKING OUT OF BARRACKS WHEN CONFINED THERETO.*

(Referred to in page 79.)

CHARGE.

For breaking out of barracks when confined thereto, at _____, on or about the _____ day of _____, and not returning until brought back by an escort on the afternoon of the following day.

PENALTY IN CASE OF CONVICTION

By Regimental Court Martial.

Solitary Confinement, not exceeding 14 days; or,
Imprisonment, with or without hard labour, not exceeding 42 days; or,

108th Article
of War.
131st Article
of War.

If the Court shall think fit, the Offender to be kept in Solitary Confinement for any portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

* The infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226.

No. 54.

A SOLDIER STRIKING A COMRADE.*

(Referred to in page 79.)

CHARGE.

108th Article
of War.
131st Article
of War.

For conduct to the prejudice of good order and Military discipline, in having at _____, on or about the _____ day of _____, wilfully, and without provocation, struck Private _____, belonging to No. _____, Company, thereby provoking [*or* intending to provoke, *as the case may be*] the said Private _____ to a pugilistic contest.

PENALTY IN CASE OF CONVICTION

By Regimental Court Martial.

Solitary Confinement, not exceeding 14 days; or,

Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the Offender to be kept in Solitary Confinement for any portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

* The infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226.

No. 55.

SOLDIERS FIGHTING AND CREATING DISTURBANCE IN BARRACKS.*

(Referred to in page 79.)

CHARGE.

For conduct to the prejudice of good order and Military discipline, in having at _____, on or about the _____, created a disturbance in barracks, by fighting with Private _____, of No. _____ Company.

PENALTY IN CASE OF CONVICTION

By Regimental Court Martial.

Solitary Confinement, not exceeding 14 days; or, 108th Article of War.
Imprisonment, with or 131st Article of War.

without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the Offender to be kept in Solitary Confinement for any portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

* The infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226.

No. 56.

TELLING A FALSEHOOD TO SCREEN A
COMRADE.**(Referred to in page 79.)*

CHARGE.

108th Article
of War.
131st Article
of War.

For conduct to the prejudice of good order and Military discipline, in having at _____, on or about the _____, and when under examination in the orderly room, falsely stated to his Commanding Officer, that Private _____ :† whereas he, the prisoner, well knew at the time that the contrary was the fact.

PENALTY IN CASE OF CONVICTION

By Regimental Court Martial.

Solitary Confinement, not exceeding 14 days; or,

Imprisonment, with or without hard labour, not exceeding 42 days; or,

If the Court shall think fit, the Offender to be kept in Solitary Confinement for any portion or portions of such imprisonment, not exceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

* The infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226.

† Here insert the substance of the statement made.

No. 57.

ATTEMPTING TO DECEIVE THE CAPTAIN OR
COMMANDING OFFICER, OF HIS TROOP OR
COMPANY, AT AN INSPECTION OF NECES-
SARIES.*

(Referred to in page 79.)

CHARGE.

For having at _____, on
or about the _____, when
the Troop or Company was
paraded for an inspection of
necessaries, attempted to
deceive his Captain [*or*
Commanding Officer of the
Troop or Company] by pro-
ducing the following arti-
cles,† which he alleged were
his own, but which on ex-
amination were found to be-
long to _____, who, being
employed as an orderly [*or*
a servant to a staff officer,
as the case may be], was not
present at the inspection.

PENALTY IN CASE OF CONVICTION

By Regimental Court Martial.

Solitary Confinement, not 108th Article
exceeding 14 days; or, of War.

Imprisonment, with or 131st Article
without hard labour, not
exceeding 42 days; or,

If the Court shall think
fit, the offender to be kept
in Solitary Confinement for
any portion or portions of
such imprisonment, not ex-
ceeding 14 days at a time,
with an interval between
them of not less duration
than such period of Solitary
Confinement.

* The infliction of Corporal Punishment for this offence not sanc-
tioned by the Queen's Regulations, page 226.

† Here insert the articles.

No. 58.

FOR AIDING AND ABETTING A SOLDIER IN
AN ATTEMPT TO DECEIVE THE CAPTAIN
OR COMMANDING OFFICER OF HIS TROOP
OR COMPANY, AT AN INSPECTION OF NE-
CESSARIES.*

(Referred to in page 79.)

	CHARGE.	PENALTY IN CASE OF CONVICTION
108th Article of War.	For having at _____, on or about the _____, aided and abetted Private _____, in an attempt to deceive the Captain or Commanding Officer of his Troop or Com- pany, at the inspection of necessaries, by lending him the following articles,† whereby to enable the said Private _____ to make it appear that his Kit was complete.	<i>By Regimental Court Martial.</i>
131st Article of War.		Solitary Confinement, not exceeding 14 days; or,
		Imprisonment, with or without hard labour, not exceeding 42 days; or,
		If the Court shall think fit, the Offender to be kept in Solitary Confinement for any portion or portions of such imprisonment, not ex- ceeding 14 days at a time, with an interval between them of not less duration than such period of Solitary Confinement.

* The infliction of Corporal Punishment for this offence not sanc-
tioned by the Queen's Regulations, page 226.

† Here insert the articles.

No. 59.

PREFERRING FRIVOLOUS AND UNFOUNDED
COMPLAINTS AS TO THE QUALITY OF PRO-
VISIONS OR NECESSARIES.*

(Referred to in page 79.)

CHARGE.

For conduct to the pre-
judice of good order and
Military discipline, in hav-
ing at _____, on or about
the _____, wilfully prefer-
red a *frivolous* and *un-
founded* complaint as to the
quality of meat [*or bread,*
or necessities, as the case
may be], by saying [*the*
complaint to be here stated
in terms, adding], or words
to that effect.

PENALTY IN CASE OF CONVICTION

By Regimental Court Martial.

Solitary Confinement, not exceeding 14 days; or, 108th Article
of War.

Imprisonment, with or without hard labour, not exceeding 42 days; or, 131st Article
of War.

If the Court shall think
fit, the offender to be kept
in Solitary Confinement for
any portion or portions of
such imprisonment, not ex-
ceeding 14 days at a time,
with an interval between
them of not less duration
than such period of Solitary
Confinement.

* The infliction of Corporal Punishment for this offence not sanc-
tioned by the Queen's Regulations, page 226.

No. 60.

FIRING OFF A MUSKET, LOADED WITH BALL,
IN HIS BARRACK-ROOM.*(Referred to in page 79.)*

CHARGE.

108th Article
of War.
131st Article
of War.
33rd Clause,
Mutiny Act.

For unsoldier-like conduct, in having at _____,
on or about the _____, fired off a musket loaded
with powder and ball, in his barrack-room, thereby en-
dangering the lives of other soldiers, and wantonly ex-
pending a round of the service ammunition intrusted to
his charge, and further causing barrack damages to the
amount of _____, or thereabouts.

[N. B.—Although the crimes introduced from page 186 to 216, inclusive, are commonly submitted to the investigation of Regimental Courts Martial, it will be understood, that they are cognizable also by the higher tribunals, whenever circumstances of peculiar aggravation render it necessary.]

No. 60.

FIRING OFF A MUSKET, LOADED WITH BALL,
IN HIS BARRACK-ROOM.**(Referred to in page 79.)*

PENALTY IN CASE OF CONVICTION

BY REGIMENTAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or, 131st Article
Imprisonment, with or without hard labour, not ex- of War.
ceeding 42 days; or,

If the Court shall think fit, the Offender to be kept in Solitary Confinement for any portion or portions of such Imprisonment, not exceeding fourteen days at a time, with an interval between them of not less duration than such period of Solitary Confinement; and in addition to be put under stoppages.

* The infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226.

No. 61.

**MILITARY WITNESS FAILING TO ATTEND AT
A COURT MARTIAL.***(Referred to in page 87.)***CHARGE.**108th Article
of War.

For conduct to the prejudice of good order and Military discipline, in having at _____, on or about the _____ day of _____, without any just cause failed to attend as a witness on the trial of _____, before a _____ Court Martial, although he, the Prisoner, had been duly ordered to attend by _____, his Superior Officer, he, the said _____, being a necessary witness on such trial.

No. 61.

MILITARY WITNESS FAILING TO ATTEND AT A COURT MARTIAL.*

(Referred to in page 87.)

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or,
Imprisonment, with or without hard labour; and,

108th Article
of War.
22nd and 27th
Clauses, Mu-
tiny Act.

At the discretion of the Court, to be kept in *Solitary Confinement* for any portion or portions of such imprisonment, not exceeding 14 days at a time, nor 84 days in any one year, with intervals between the periods of Solitary Confinement of not less duration than such periods; also the forfeiture of all advantage as to additional Pay (if in actual receipt of any), good conduct Pay, and Pension on Discharge, which might have otherwise accrued from the length of his former service, or to forfeiture of such advantage absolutely, whether it might have accrued from past service, or might accrue from future service, according to the nature of the case.

BY DISTRICT COURT MARTIAL.

Solitary Confinement or Imprisonment, as above.
Vide pages 11, 19, 20.

128th Article
of War.

BY REGIMENTAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or,
Imprisonment, with or without hard labour, not exceeding 42 days; or,

131st Article
of War.

If the Court shall think fit, the offender to be kept in Solitary Confinement for a portion or portions of such imprisonment, not exceeding 14 days at a time, with intervals between them of not less duration than such period of Solitary Confinement.

* The infliction of Corporal Punishment for this offence not sanctioned by the Queen's Regulations, page 226.

No. 62.

**MILITARY WITNESS REFUSING TO BE
SWORN.***(Referred to in page 87.)***CHARGE.**108th Article
of War.

For conduct to the prejudice of good order and Military discipline, in having at _____, on or about the _____ day of _____, when in attendance as a witness at a _____ Court Martial, held for the trial of _____, refused to be sworn, in order to give his evidence, although repeatedly warned by the President of the consequences of that refusal, he, the said _____, being a necessary witness on such trial.

No. 62.

MILITARY WITNESS REFUSING TO BE
SWORN.**(Referred to in page 87.)*

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or,
Imprisonment, with or without hard labour; and,
At the discretion of the Court, to be kept in *Solitary*
Confinement for any portion or portions of such Im-
prisonment, not exceeding 14 days at a time, nor 84 days
in any one year, with intervals between the periods of
Solitary Confinement of not less duration than such pe-
riods; also the forfeiture of any advantage as to addi-
tional Pay (if in actual receipt of any), good conduct
Pay, and Pension on Discharge, which might have
otherwise accrued from the length of his former service
or to forfeiture of such advantage absolutely, whether it
might have accrued from past service, or might accrue
from future service, according to the nature of the case.

108th Article
of War.
23rd and 27th
Clauses, Mu-
tiny Act.

BY DISTRICT COURT MARTIAL.

Solitary Confinement or Imprisonment, as above. 128th Article
Vide pages 11, 19, 20. of War

BY REGIMENTAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or, 131st Article
Imprisonment, with or without hard labour, not ex- of War.
ceeding 42 days; or,

If the Court shall think fit, the offender to be kept in
Solitary Confinement for a portion or portions of such
imprisonment, not exceeding 14 days at a time, with
intervals between them of not less duration than such
period of Solitary Confinement.

* The infliction of Corporal Punishment for this offence not sanc-
tioned by the Queen's Regulations, page 226.

No. 63.

MILITARY WITNESS REFUSING TO GIVE
EVIDENCE.*(Referred to in page 87.)*

CHARGE.

108th Article
of War.

For conduct to the prejudice of good order and Military discipline, in having at _____, on or about the _____ day of _____, having been duly sworn as a witness before a _____ Court Martial, then sitting for the trial of _____, refused to _____ [*here state the nature of the refusal, whether to give evidence, or to answer questions, or both, as the case may be*].

No. 63.

MILITARY WITNESS REFUSING TO GIVE
EVIDENCE.**(Referred to in page 76.)*

PENALTY IN CASE OF CONVICTION

BY GENERAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or, Imprisonment, with or without hard labour; and, At the discretion of the Court, to be kept in <i>Solitary</i> <i>Confinement</i> , for any portion or portions of such imprison- ment, not exceeding 14 days at a time, nor 84 days in any one year, with intervals between the periods of Solitary Confinement of not less duration than such pe- riods; also the forfeiture of all advantage as to addi- tional Pay (if in actual receipt of any), good Conduct Pay, and Pension on Discharge, &c.	108th Article of War. 23rd and 27th Clauses, Mu- tiny Act.
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BY DISTRICT COURT MARTIAL.

Solitary Confinement, or Imprisonment, as above. <i>Vide</i> pages 11, 19, 20.	121st Article of War.
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BY REGIMENTAL COURT MARTIAL.

Solitary Confinement, not exceeding 14 days; or, Imprisonment, with or without hard labour, not ex- ceeding 42 days; or, If the Court shall think fit, the offender to be kept in Solitary confinement for a portion or portions of such imprisonment, not exceeding 14 days at a time, with intervals between them of not less duration than such period of Solitary Confinement.	131st Article of War.
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* The infliction of Corporal Punishment for this offence not sanc-
tioned by the Queen's Regulations and Orders of the Army; page 226.

No. 64.

CIRCULAR MEMORANDUM.

(Referred to in page 32.)

HORSE GUARDS, 20th May, 1847.

Although the power of removing soldiers committed under sentence of Courts Martial to Civil Prisons is reserved to the confirming authority by the 41st clause of the Mutiny Act, it is necessary to explain that that provision does not extend to the buildings set apart as Military Prisons, which are placed by the Act strictly under the superintendence of the Secretary at War, and the Visitors appointed by the Act, and by his authority under it, and that no Soldier committed to a Military Prison can be legally discharged from custody before the expiration of his sentence, without the Secretary at War's sanction, or that of one of the General Officers to whom he may have deputed his authority. And the Commander-in-Chief being of opinion that it must be for the advantage of discipline that the remission of punishment should, in all cases, depend on the conduct of the Soldier while in prison, His Grace has been pleased to direct that henceforth, when Commanding Officers, or others to whom the Secretary at War's authority has not been deputed, see fit to recommend the remission of a portion of an imprisonment awarded by a Regimental or other Court Martial, the recommendation may be addressed to the Visitors of the Military Prison to which the Soldier shall have been committed, for their consideration and approval, previously to his release by competent authority.

It is to be clearly understood that this Order has reference only to the remission of imprisonment subsequent to committal, and that it is in no manner intended to interfere with or restrict the exercise of mercy, by Commanding Officers or others, in remitting or diminishing the amount of punishment awarded to Soldiers when confirming the sentence of Courts Martial.

By command of Field Marshal the Duke of Wellington,
Commander-in-Chief.

(Signed) JOHN MACDONALD,
Adjutant-General.

No. 65.

CIRCULAR.

(Referred to in page 51.)

HORSE GUARDS, 16th June, 1836.

54th Article of
War.

SIR,—Lord Hill is persuaded that if Commanding Officers avail themselves of the power vested in them by the 48th Article of War, an offence now of frequent occurrence, and highly prejudicial to discipline, namely, that of absence without leave, will be checked.

His Lordship will, accordingly, hold Commanding Officers responsible for the strict application of such part of the provisions of that Clause as empower them to deprive the Soldier of his pay for absence without leave, for any number of days,* not exceeding *five*.

To enable Lord Hill to judge how far the new power thus vested in the Commanding Officer has answered its purposes, his Lordship desires that the number of cases of absence without leave that shall have been thus disposed of by the award of the Commanding Officer may be noted at the bottom of the Monthly Return of Courts Martial.

It is, however, to be distinctly understood, that in ordering Commanding Officers to give due effect to the power alluded to, they are not precluded from trying

* In reckoning this forfeiture, *the day on which the soldier absents himself, and the day on which he returns*, are equally to be counted days for that purpose, although the absence may not, in *either case*, amount to an entire day.

the Soldier by a Court Martial for less than five days' absence without leave, if, upon investigating the case, the circumstances elicited shall appear to call for a heavier punishment than the mere forfeiture of the pay.

All cases of absence without leave, for any period above five days, must be brought to trial before a Court Martial.

When a case of the last-mentioned description is attended with extenuating circumstances, which shall render the Commanding Officer desirous to deal leniently with it, he may consider himself at liberty to apply to the General Officer under whose immediate orders he is serving (or to the General Commanding-in-Chief if serving in a district not commanded by a General Officer) for a special authority to dispense with the trial by Court Martial;* but Lord Hill expects that such applications shall never be made except upon the most urgent grounds, the particulars of which must, invariably, be specified in detail.

I have the honour to be, Sir,

Your obedient, humble Servant,

JOHN MACDONALD,

Adjutant-General.

the _____ Officer Commanding
Regiment of _____

* It is understood that the power of dispensing with the trial can only be exercised by General Officers of Districts in those cases of *simple absence without leave* [not exceeding 21 days] in which there was manifestly *no intention to desert*.

No. 66.

GENERAL ORDER.

(Referred to in page 205.)

HORSE GUARDS, 18th June, 1835.

Some cases having lately occurred, in which Soldiers have drawn their bayonets upon each other, and also upon other persons who happened to come in contact with them, whilst quarrelling in the streets and in public-houses, the General Commanding-in-Chief desires, that the Soldiers of the army may be reminded that they are armed for the protection of their King and country, and for the support and execution of the laws, when *lawfully* called out for these purposes; that they wear their side arms as an honourable distinction of the profession to which they belong; that they are not to use them in private broils, or even for their own personal defence upon such occasions; and that it is the duty of the Soldiers to avoid resorting to places in which such broils are likely to take place, more particularly when dressed as Soldiers with their side arms.

The General Commanding-in-Chief is determined to put an effectual stop to so dangerous and disgraceful an offence, by the punishment and degradation of every Soldier who shall hereafter be convicted of it.

To this end Lord Hill desires, that Commanding Officers of regiments and depots will bring to summary trial, for unsoldier-like and disgraceful conduct,* every

* For a Form of Charge, *vide* Appendix, No. 49.

man who shall be reported to have drawn, or attempted to draw, his bayonet, for the purpose of using it against another person, in any case of dispute, affray, or interference.

His Lordship further desires that every Soldier convicted before a Court Martial of having used, or attempted to use, his side arms, in any of the cases herein contemplated, may, in addition to the punishment awarded by the Court, be degraded on the public parade, in front of the regiment or depot to which he belongs, by being there stripped of his bayonet and bayonet belt, and proclaimed by the Commanding Officer as a man unworthy to be intrusted with the care of his bayonet, except in the ranks, under the view and command of his Officer.

In all such cases the offender shall be stripped of his side arms by the pioneers, in order to enhance his degradation. He who is thus degraded shall not be suffered to wear his bayonet or bayonet belt, except upon duty, for one year from the date of his degradation, during which time he shall be denied every indulgence to which the good soldier is entitled; and shall march to church in the ranks without side arms; his name shall, moreover, be posted up in some conspicuous place in the barrack-room of the company to which he belongs, on the barrack-gate, and on the doors of the guard-house and canteen.

The General Commanding-in-Chief feels confident that these measures will, with the zealous co-operation of all classes of Officers, and the vigilance of the Non-Commissioned Officers, soon rescue the Army from the stigma which a few unworthy individuals would attach

to it, by resorting to a base and unmanly expedient, heretofore unknown amongst British Soldiers.

By Command of the Right Honourable the General Commanding-in-Chief.

JOHN MACDONALD,
Adjutant-General.

*the Officer Commanding
the _____ Regiment of _____*

CIRCULAR MEMORANDUM,

*Addressed to the Army at Home
and Abroad, and to be read
at the head of every Corps.*

HORSE GUARDS, S. W.,
21st FEBRUARY, 1861.

General No. 108.

Penal Servitude.
1—(1861).

HIS ROYAL HIGHNESS The General Commanding-in-Chief, with the concurrence of the Secretary of State for War, desires that, hereafter, soldiers who may be convicted by Courts Martial, or by the Civil Power, and sentenced to Penal Servitude, shall not, as a consequence of such sentence, be discharged from the Service.*

Such offenders will be sent to a prison to be specially appointed for them.

An immediate report of any such sentence of penal servitude should be made to the Adjutant-General of the Forces, for the information of the General Commanding-in-Chief.

By Command,

JAMES YORKE SCARLETT,
Adjutant-General.

* Under the 24th Article of War, Soldiers sentenced to Penal Servitude may be discharged forthwith by order of the Commander-in-Chief.

No. 68.

OATH TO BE TAKEN BY MEMBERS OF ALL
COURTS MARTIAL.*(Referred to in page 114.)*

[At District, Regimental, or Detachment Courts Martial, the President to administer the oath to the Members; after which any sworn Member may administer the oath to the President.] 154th Article of War.

“You shall well and truly try and determine according to the evidence in the matter now before you.

“So help you God.”

“You shall duly administer justice according to the Rules and Articles for the better Government of Her Majesty's Forces, and according to an Act now in force for the punishment of Mutiny and Desertion, and other crimes therein mentioned, without partiality, favour, or affection; and if any doubt shall arise, which is not explained by the said Articles or Act, then according to your conscience, the best of your understanding, and the custom of war in the like cases. And you shall not divulge the sentence of the Court until it shall be duly approved; neither shall you, upon any account, at any time whatsoever, disclose or discover the vote* or

* In taking the votes of the Court, the President is required to begin with that of the youngest Member. 165th Article of War.

opinion of any particular member of the Court Martial, unless required to give evidence thereof as a witness by a court of justice, or a Court Martial, in a due course of law.

“So help you God.”

[In all cases in which the same Court Martial tries more Prisoners than one, and they are arraigned upon separate and distinct charges, the Court is to be re-sworn at the commencement of each trial, and the proceedings are to be made up separately and signed, with the date of signature annexed, as if each Prisoner had been tried by a Court Martial composed of different members.—*Queen's Regulations*, page 221, Art. 6.]

No. 69.

OATH TO BE ADMINISTERED TO A WITNESS
BY THE PRESIDENT OF A DISTRICT,
GARRISON, REGIMENTAL, OR DETACHMENT
COURT MARTIAL.

(Referred to in page 114.)

“The evidence which you shall give before this Court shall be the truth, the whole truth, and nothing but the truth. 155th Article of War.

“So help you God.”



INDEX.

	Pages.
ABSENCE without leave,	77, 190
—— from Parade,	77, 191
—— from Tattoo,	78, 204
Accounts or Returns, false productions of,	162
Additional Pay or good Conduct Pay and Pension, forfeiture of,	35, 37
Advising or persuading to Desert,	57, 144
Aiding and abetting in the Attempt to deceive the Captain or Commanding Officer of a Troop or Company, at an Inspection of Necessaries,	79, 214
Allowance to Civil Witnesses,	92
Anonymous Letter, imputing improper conduct and motives to a Superior,	58, 59, 184
Appendix,	99
Application, mode of, for the Assembling of Cou Martial,	8, 10, 48, 101, 104
—— for Discharge with Ignominy, Forms of,	35, 107
Arms, Drunkenness on Duty, under,	170
Arrest, Breaking of,	57, 148
Assaulting and Obstructing Police,	58, 59, 178
Attempting to deceive the Captain or Commanding Officer of a Troop or Company at an Inspection of Necessaries,	79, 213
BARRACKS, Breaking out of, after hours,	79, 208
—— Do. when confined thereto,	79, 209

	Pages.
Bayonets, Soldiers drawing them upon each other, or upon Civilians,	78, 205, 228
Breaking Arrest, or escaping from Confinement, . .	57, 148
Bribe, offer of a, to a Sentry,	78, 199
—— Sentry receiving a,	78, 200
 CHALLENGE of Members,	 109, 110, 114
Character, General, Inquiry into,	66
—— Stage of Proceedings at which a Prisoner is at Liberty to produce Evidence as to,	60, 61
—— Witnesses as to, to be examined upon Oath, . .	61
Charges not to be vague or indefinite,	47
Charges, <i>Forms of, with the Penalties attaching to each,</i> <i>in case of conviction, viz. :—</i>	
—— Mutiny,	132, 133
—— Striking, or offering violence against a Superior Officer,	134, 135
—— Offering Violence in a Military Prison to a Visi- tor, or other Superior Military Officer, . . .	136, 137
—— Disobeying the Command of a Superior Officer, .	138, 139
—— Sleeping on his Post, or leaving it before regularly Relieved,	140, 141
—— Desertion, making away with Necessaries, &c. .	142, 143
—— Advising or persuading others to Desert, . . .	144, 145
—— Fraudulent Confession of Desertion by a Soldier while Serving,	146, 147
—— Breaking Arrest or escaping from Confinement, .	148, 149
—— Refusing Assistance to a Magistrate in the Appre- hension of Military Persons accused of Civil Crimes,	150, 151
—— Leaving a Guard or Picquet,	152, 153
—— <i>Disgraceful Conduct, as contemplated by the Mutiny</i> <i>Act and Articles of War, viz. :—</i>	
—— Designedly Maiming or Mutilating,	154, 155

Charges—*continued.*

— Maiming or injuring another Soldier,	154, 155
— Tampering with Eyes,	156, 157
— Malingering and Feigning Disease,	156, 157
— Embezzling or fraudulently misapplying Public Money,	158, 159
— Stealing from a Comrade or Military Officer, or from any Military or Regimental Mess, or,	
— Receiving Stolen Property, knowing the same to be such,	160, 161
— Purlloining, or Selling Government Stores, or Receiving the same, knowing them to have been Stolen,	160, 161
— Producing false or fraudulent Accounts or Returns,	162, 163
— Making away with Smart Money,	164, 165
— Committing any petty offence of a Felonious or Fraudulent nature upon a Civilian,	166, 167
— Accidental Maiming,	168, 169
— Drunk on Duty under Arms,	170, 171
— Habitual Drunkenness,	172, 173
— Insubordinate and Outrageous Conduct towards a Superior,	174, 175
— Irregular Conduct on Escort Duty,	176, 177
— Obstructing and Assaulting the Police in the Execution of their Duty,	178, 179
— Forcing or Striking a Sentinel,	180, 181
— Soldiers permitting a Non-Commissioned Officer to be assaulted by Civilians, without affording him any aid or assistance,	182, 183
— Writing an Anonymous Letter, imputing Improper Conduct to a Superior,	184, 185
— a Non-Commissioned Officer commanding a Guard, &c., &c., suffering a Prisoner to escape from his Charge,	186

	Pages.
Charges— <i>continued.</i>	
—— Non-Commissioned Officers neglecting to obey any Garrison or other Orders,	187
—— Private Soldiers neglecting to obey any Garrison or other Orders,	188
—— Drunk when on or for Duty or on Parade, or on the Line of March,	189
—— Absence without Leave,	190
—— Absence from Parade,	191
—— Losing by neglect, Making away with, Spoiling or Damaging Arms, Clothing, Instruments, Equipments, Accoutrements, or Necessaries, . . .	192
—— Dragoons ill-treating their Horses,	193
—— a Non-Commissioned Officer Striking or Ill-treating a Soldier,	194
—— a Non-Commissioned Officer allowing a Prisoner in his charge to get drunk,	195
—— a Sentry neglecting his duty,	196
—— Persuading, or endeavouring to persuade, a Sentry to disobey the Orders of his Post,	197
—— a Sentry disobeying the Orders of his post, . . .	198
—— Offering a Bribe to a Sentry,	199
—— a Sentry receiving a Bribe,	200
—— a Sentry delivering over the Charge of his Post to another Soldier, without a Non-Commissioned Officer being present at the Relief,	201
—— a Soldier relieving another on Sentry, without being regularly posted by a Non-Commissioned Officer,	202
—— a Corporal of a Guard permitting a Soldier to relieve another on Sentry, without being present at the Relief himself,	203
—— Absence without Leave from Tattoo,	204

Charges—*continued.*

— Drunk or Riotous in the Streets or Barracks, or Drunk and Riotous in the Streets and Drawing his Bayonet,	205
— Improper Conduct to Non-Commissioned Officers,	206
— Falsely Accusing a Non-Commissioned Officer of Drunkenness,	207
— Breaking out of Barracks after Hours,	208
— Ditto, when confined thereto,	209
— a Soldier Striking a Comrade,	210
— Soldiers Fighting and creating Disturbance in Barracks,	211
— Telling a Falsehood to screen a Comrade, . . .	212
— Attempting to deceive the Captain or Commanding Officer of his Troop or Company at an Inspection of Necessaries,	213
— Aiding and Abetting in the attempt to deceive the Captain, &c., &c.,	214
— Preferring frivolous and unfounded Complaints as to the quality of Provisions or Necessaries, .	215
— Firing off a loaded Musket in a Barrack-room, .	216, 217
— a Military Witness failing to attend at a Court Martial,	218, 219
— a Military Witness refusing to be Sworn, . . .	220, 221
— a Military Witness refusing to give Evidence, .	222, 223
Civil Crimes, Soldiers refusing to assist Magistrates in the Apprehension of Military Persons accused of,	57, 150
Civilians, committing a Fraud upon,	57, 166
— Soldiers permitting them to assault Non-Commis- sioned Officers without affording their assistance,	58, 59, 182
Civil Witnesses, Allowance to,	92
— Form of Summons for,	125
— Suggestions applicable to,	86 to 92
Complaints, preferring frivolous and unfounded, . .	79, 215

	Pages.
Comrade, a Soldier striking a,	79, 210
— Telling a falsehood to screen,	79, 212
— Stealing from,	16, 160
Conduct, Disgraceful,	16, 34, 35, 37, 57, 107, 154 to 167
Confinement, Solitary, by Sentence of District or Garri- son Courts Martial,	11, 19, 20
— Escaping from,	57, 148
Convictions, previous, Rule of Proceeding,	61 to 65, 119
Corporal of a Guard permitting a Soldier to relieve another on Sentry without being present at the Relief himself,	78, 203
Corporal Punishment, limited to certain Crimes,	16, 17
— Medical Examination of a Prisoner, previous to the Infliction of,	18
— combined with Imprisonment, Solitary or otherwise,	14
— extent to which it can be applied,	11
— Commutation of,	16
— Infliction of, in a Military Prison,	16
— General Remarks on the subject of,	14, 15, 16
Courts of Inquiry, General remarks upon the Subject of them,	93 to 98
— Form of Proceedings,	126
Courts Martial, Form of Proceeding,	113 to 124
DEFAULTERS' BOOK, not admissible in Evidence, except on Trials for Habitual Drunkenness,	66
Desertion,	50 to 54, 57, 142
— Advising or Persuading others to commit the Crime of,	57, 144
— Fraudulent Confession of,	57, 146
Designedly Maiming or Mutilating himself or another Soldier,	57, 154, 228
Detachment Courts Martial having the Power of Regi- mental Courts Martial, Constitution of,	80, 81, 82

	Pages.
Discharge with Ignominy,	36, 107, 121
Disease, Feigning or Malingering,	156
Disgraceful Conduct,	17, 34, 37, 57, 107, 154 to 167
Disobeying the lawful Command of a Superior Officer, 9, 56, 138	
District or Garrison Courts Martial, Constitution of,	7
—— Power of,	10 to 15
Dragoons ill-treating their Horses,	77, 193
Drum-head Courts Martial, Constitution and Power of,	84, 85
Drunk and Riotous in the Streets or Barracks,	78, 205
—— and Drawing his Bayonet,	78, 205, 228
—— when on or for Duty or on Parade, or on the Line of March,	77, 189
Drunkenness, Habitual,	38 to 46, 73 to 76
—— on Duty under Arms,	170, 171
—— falsely accusing a Non-Commissioned Officer of,	79, 207
Duty, Irregular Conduct on Escort,	58, 59, 176, 177
 EMBEZZLING, or Fraudulently misapplying Public	
Money,	158
Escaping from Confinement,	57, 148
Escort Duty, Irregular Conduct,	58, 59, 176
Examination of Offenders by a Medical Officer <i>before</i> Trial,	101
—— <i>after</i> Trial, and before subjected to <i>Corporal</i> Punishment,	18
Examination, Medical Certificate of, to be laid before the Court, <i>and attached</i> to the Proceedings,	85, 101
Extracts from Court Martial Book, when admissible in Evidence,	62, 119
Eyes, Tampering with,	156
 FALSE or Fraudulent Accounts, Returns, production of,	
Falsehood, Telling a, to screen a Comrade,	79, 212

	Pages.
Falsely accusing a Non-Commissioned Officer of Drunkenness,	79, 207
Feigning Disease, or Malingering,	156
Fighting and Creating Disturbance in Barracks, . . .	79, 211
Firing off a Musket, loaded with Ball, in a Barrack-room,	79, 216
Forcing or Striking a Sentinel,	58, 59, 180
Forfeited Service, Restoration of,	53
Forfeiture of Additional Pay, Good Conduct Pay, and Pension, for Disgraceful Conduct,	34
— of Pay, not exceeding a penny a day for 30 days, for Drunkenness on or for Duty or Parade, or on the Line of March,	45, 171, 189
— of Pay for Habitual Drunkenness,	37 to 46, 73 to 75
— <i>Past Services</i> follows on a Conviction of Desertion as a matter of Course,	53
— <i>Future Service</i> for Desertion, optional with the Court,	53
Form of Applications for a Court Martial,	101, 104
— for Discharge with Ignominy,	107
— of Proceedings of a Court Martial,	109, 124
— of Medical Certificate to be attached to the Proceedings of a Court Martial,	101
— Summons to a Civil Witness,	125
— Proceedings of a Court of Inquiry,	126
— Application for the Removal of Prisoners from one place of Confinement to another,	106
— Certificate of previous Convictions, to be produced on a Prisoner's Trial, when the Court-Martial Book itself is not produced,	130
Former Convictions and General Character,	61 to 65, 119
Forms of Charges (see <i>Charges</i>).	
Fraudulent Confession of Desertion,	57, 146
Fraudulently Misapplying Public Money,	158

INDEX.

243

Pages.

GAOLERS to receive Military Offenders into Custody, and to deliver them up when required to do so by Military Authority,	26, 28
Garrison Orders, Non-Commissioned Officers neglecting to obey them,	77, 187
— Privates neglecting to obey them,	77, 188
Government Stores, Purloining or Selling them,	160
Guard or Picquet, Leaving it without permission,	57, 152
Guilty, Plea of, when offered by a Prisoner,	111, 112
HABITUAL Drunkenness,	38, 46, 75, 172, 173
Health of Prisoners, State of, to be ascertained <i>before</i> and after Trial,	18, 85, 101
Horses, ill-treatment of, by Dragoons,	77, 193
IGNOMINY, Discharge with, at the recommendation of a District Court Martial,	35, 107
Ill-treatment of Soldiers by Non-Commissioned Officers,	77, 194
— of Horses by Dragoons,	77, 193
Imprisonment, Term of, to be reckoned as commencing from the day on which the <i>original</i> proceeding shall have been signed by the President,	34
— Place of, not to be fixed by the Court, but by the Confirming Officer, or by the Officer Commanding the Corps to which the Offender belongs or is attached,	22
— Extent to which it may be awarded by a District Court Martial,	19
— Do., by a Regimental or Detachment Court Martial,	72
Improper Conduct towards Non-Commissioned Officers,	79, 206
Inquiry, Courts of, General Remarks upon the subject of them,	93 to 98
— Form of Proceedings,	126
Insubordinate and Outrageous Conduct towards a Su- perior Officer,	58, 59, 174

	Pages.
Irregular Conduct on Escort Duty,	58, 59, 176
JUDGE-ADVOCATE-GENERAL, London, the Proceedings of all District or Garrison Courts Martial to be transmitted without delay to,	67, 123
LEAVING his Post without being regularly relieved,	9, 56, 140
—— a Guard or Picquet without permission,	57, 152
Letters, Anonymous, Imputing improper Motives and Conduct to a Superior,	58, 59, 184
Line of March, Drunkenness on,	45, 74, 77, 189
Losing by neglect, or making away with, Necessaries, &c., &c.,	77, 192
MAGISTRATES, refusing Assistance to, in the Apprehen- sion of Military Persons accused of Civil Crimes,	57, 150
Maiming,	57, 168
—— or Mutilating by Design,	57, 154
—— or Injuring another Soldier by Design,	57, 154
Making away with Smart Money,	164
Malingering or Feigning Disease,	156
Marking Deserters with Letter D,	143
Medical Examination of Offenders by a Medical Officer <i>before</i> trial,	101
—— Certificate of, to be laid before the Court, and <i>attached</i> to their Proceedings,	85, 101
—— of Offenders <i>after</i> Trial, and before subjected to Corporal Punishment,	18
Members of Courts Martial, Challenge of, by a Prisoner,	109, 110, 114
—— Oaths to be administered to,	231
—— of Courts of Inquiry <i>not</i> sworn,	95
Military Prison, Offering Violence in,	9, 56, 136
Military Witnesses,	86 to 92, 218 to 223

Mixed Punishments (Corporal Punishment, Imprisonment, Solitary, or otherwise), when awarded by a District or Garrison Court Martial, . . .	10, 14, 15
— (Solitary Confinement and Imprisonment), when awarded by a Regimental or Detachment Court Martial,	72
Mutiny,	8, 56, 132
NECESSARIES, losing or making away with,	77, 192
Neglect of Duty on the part of a Sentry,	78, 196
Non-Commissioned Officers, Soldiers permitting them to be assaulted by Civilians, without affording them any Assistance,	58, 59, 182
— neglecting to obey any Garrison or other Orders,	77, 187
— Striking or ill-treating Soldiers,	77, 194
— Improper Conduct of Soldier towards,	79, 206
— falsely accused by Soldiers of Drunkenness,	79, 207
— <i>Reprimanding</i> them by Courts Martial forbidden,	112
— Commanding a Guard or Picquet, suffering a Prisoner committed to his Charge to escape,	76, 186
— allowing a Prisoner in his Charge to get Drunk,	78, 195
OATHS, Form of, to be taken by Members of Courts Martial,	231
— Form of, to be taken by Witnesses of Courts Martial,	233
— not taken in Courts of Inquiry, either by Members or Witnesses,	95
Obstructing and Assaulting Police,	58, 59, 178
Offering Violence to, or Striking a Superior Officer,	9, 56, 134
— in a Military Prison,	9, 56, 136
Outrageous and Insubordinate Conduct towards a Superior Officer,	174
PARADE, Drunk when for,	77, 189
— Absence without Leave from	77, 191

	Pages.
Penal Servitude, Crimes punishable with, by Sentence of <i>General Courts Martial</i> ,	133 to 143, 159
Penal Servitude, Soldiers sentenced to, shall not, as a consequence, be Discharged from the Ser- vice,	230
Persuading a Sentry to disobey the Orders of his Post,	78, 197
Picquet or Guard, leaving it without Permission,	57, 152
Police, Assaulting and Obstructing them in the Execu- tion of their Duty,	58, 59, 178
Post, a Sentry Sleeping on his, or leaving it without being Relieved,	9, 56, 140
— a Sentry disobeying the Orders of his,	79, 198
Preferring Frivolous and Unfounded Complaints,	79, 215
Presidents to insert the date of their signing the Pro- ceedings of Courts Martial,	66, 123
— Rank of, on District or Garrison Courts Martial,	8, 113
— Rank of, on Regimental and Detachment Courts Martial,	72
— Rank of, on Courts of Inquiry,	93, 126
Prisons, Military, offering Violence in,	9, 56, 136
Prisoners to be warned that previous Convictions will be brought against them,	64, 65
Prisoners, recommendation of, to Mercy,	112
— recommended as fit subjects for Discharge with Ignominy for Disgraceful Conduct,	36, 107, 121, 155
— allowed to effect their Escape from Confine- ment,	76, 78, 186
Proceedings of a Court Martial, Form of,	113
— Court of Inquiry, Form of,	126
Producing False or Fraudulent Accounts or Returns,	162
Public Money, Misapplication of,	158
Purloining or Selling Government Stores,	160
REASSEMBLING of Courts Martial for Revision, 68 to 70, 122, to 124 — Courts of Inquiry,	96, 129

	Pages.
Recommendation of a Prisoner to Mercy,	112
— for an Offender's Discharge with Ignominy for Disgraceful Conduct,	35, 107, 121, 155
Refusing Assistance to a Magistrate in the Apprehension of Military Persons accused of Civil Crimes,	57, 150
Regimental Court Martial, its Composition,	71
— its Powers,	72 to 79
— when under peculiar Circumstances permitted to try Grave Offences,	47, 48, 49, 50, 57, 59
Restoration of Forfeited Service by Desertion,	53
Returns or Accounts, false, production of,	162
Rioting in the Streets or Barracks,	78, 205
SELLING or Purloining Government Stores,	160
Sentinel, Striking or Forcing a,	58, 59, 180
Sentry, neglect of Duty on the Part of a,	78, 196
— Persuading him to Disobey the Orders of his Post,	78, 197
— Disobeying the Orders of his Post,	78, 198
— Offering a Bribe to,	78, 199
— Receiving a Bribe,	78, 200
— Delivering over his Post to another Soldier without the presence of a Non-Commissioned Officer,	78, 201
— Sleeping on his Post, or Leaving it without being regularly Relieved,	9, 56, 140
Sergeants, Reprimanding them by Sentence of Courts Martial forbidden,	112
Sketch of Proceedings of Court Martial,	113
Sketch of Proceedings of Court of Inquiry,	126
Smart Money, making away with,	164
Solitary Confinement, Extent to which it can be awarded by District or Garrison Court Martial,	11
Solitary Confinement, Extent to which it can be awarded by Regimental and Detachment Courts Martial,	72
Stealing,	160

	Pages.
Stoppages, Prisoner sentenced to be placed under, 11, 12, 13, 14, 73	
Striking a Comrade,	79
—— or offering Violence to a Superior Officer,	9, 56, 134
—— by Prisoners confined in Military Prisons,	9, 56, 136
Superior Officers, Disobeying the Lawful Commands of, 9, 56, 138	
—— Insubordinate and Outrageous Conduct towards, 58, 59, 174	
—— Writing an Anonymous Letter, imputing Impro- per Conduct and Motives to,	58, 59, 184
Summons to Civil Witnesses,	88, 90, 125
 TAMPERING with Eyes,	 156
Tattoo, Absence without Leave from,	78, 204
Telling a Falsehood to Screen a Comrade,	79, 212
Theft,	160
 VAGUE and Indefinite Charges, Preferring of, forbidden,	 47
Violence, offer of, to a Superior Officer,	9, 56, 134
—— to a Visitor or other Superior Military Officer in Provost Prison,	9, 56, 136
Votes of Members, Order in which they should be taken	231
 WITNESSES, Military, failing to attend at a Court Martial,	 88, 218
—— refusing to be sworn,	88, 220
—— when sworn, refusing to give Evidence,	88, 222
—— Civil, Form of Summons to,	125
—— Allowance to,	92
—— Suggestions applicable to,	88 to 92
—— at Courts Martial must be examined on Oath,	61, 231
—— at Courts of Inquiry, not to be sworn,	95
Writing an Anonymous Letter, imputing improper Con- duct to a Superior,	58, 59, 184

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